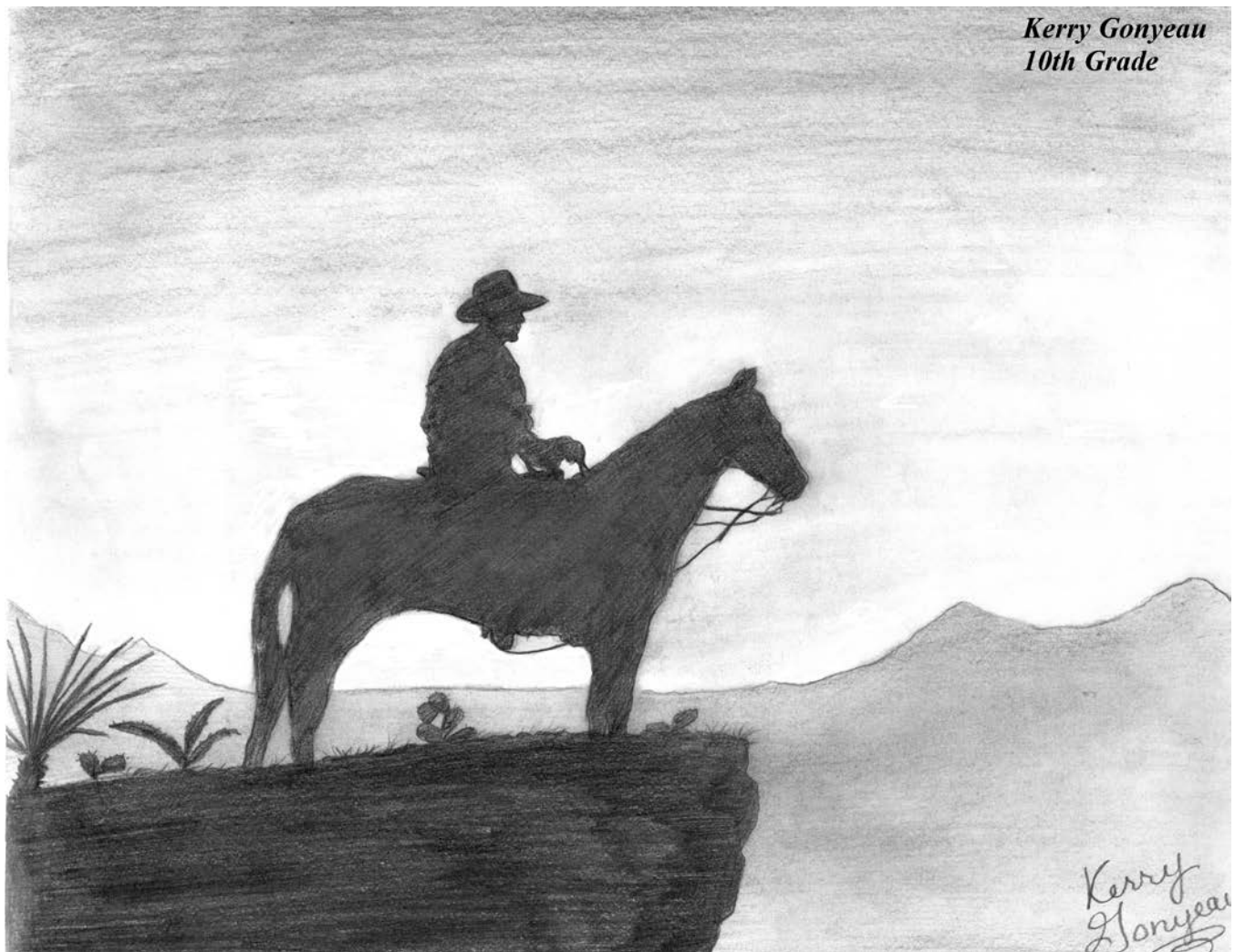

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Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

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The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

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Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §4.5

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §4.5, concerning Rules Applying to All Public Institutions of Higher Education in Texas (Common Calendar). The intent of these amendments is to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for waivers to the common calendar. These amendments would allow public institutions to begin their spring, fall, and first summer terms within seven days of the common calendar date without needing to request a waiver.

Dr. Stacey Silverman, Interim Assistant Commissioner for Workforce, Academic Affairs and Research, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local governments as a result of amending this section.

Dr. Silverman has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of administering the section will be to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for waivers to the common calendar. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposed amendments may be submitted by mail to Stacey Silverman, Interim Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at WAARcomments@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, Chapter 61, Subchapter C, §61.051(g), which requires the Coordinating Board to promote quality in higher education and to provide the administrative structure necessary for the free transfer of credits, and Texas Education Code, Chapter 61, Subchapter B, §61.027, which provides the Coordinating Board

with general rulemaking authority to effectuate the provisions of Chapter 61.

The amendments affect Texas Education Code, §61.051.

§4.5. Common Calendar.

(a) (No change.)

(b) The Commissioner may grant waivers to the common calendar to benefit students and/or to improve the efficient operations of the institutions. A public university or community, technical, or state college that begins its fall and spring semesters and its first summer term within 7 days of the date set by the common calendar is in compliance with the common calendar and does not require a waiver.

(c) - (g) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301245

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 25, 2013

For further information, please call: (512) 427-6114



CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER C. APPROVAL OF NEW ACADEMIC PROGRAMS AT PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND REVIEW OF EXISTING DEGREE PROGRAMS

19 TAC §§5.41, 5.43, 5.44, 5.48 - 5.50, 5.52

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §§5.41, 5.43, 5.44, 5.48, 5.49, 5.50, and 5.52 concerning Rules Applying to Public Universities, Health-Related Institutions, and/or Selected Public Colleges of Higher Education in Texas (Approval of New Academic Programs at Public Universities, Health-Related Institutions, and

Review of Existing Degree Programs). The intent of the amendments is to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for changes to administrative units at public universities and health-related institutions (HRIs). These amendments would allow public institutions to make changes to their administrative structures without requesting permission from the Coordinating Board. The amendments would also require public universities and HRIs offering a new degree or certificate program to notify all public institutions within 50 miles of the teaching site of their intention to offer the program at least 30 days prior to submitting their request to the Coordinating Board. The amendments would also change the required date of submission for graduate program review documents from 90 days to 180 days.

Dr. Stacey Silverman, Interim Assistant Commissioner for Workforce, Academic Affairs and Research, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local governments as a result of amending these sections.

Dr. Silverman has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of administering the sections will be to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for changes to administrative units at public universities and health-related institutions. The benefits of administering the sections would also include better coordination and efficiency of delivery between public institutions offering similar degree and certificate programs. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposed amendments may be submitted by mail to Stacey Silverman, Interim Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at WAARcomments@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, Chapter 61, Subchapter C, §61.051(e), which states that no new department, school, degree program, or certificate program may be added at any public institution of higher education except with specific prior approval of the board.

The amendments affect Texas Education Code, §61.051(e).

§5.41. Purpose.

The purpose of this subchapter is to describe the criteria and approval processes for degree and certificate programs [~~and for administrative changes involving academic units~~]. Criteria in §5.45 of this title (relating to Criteria for New Baccalaureate and Master's Degree Programs) apply to selected public colleges.

§5.43. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) **Academic administrative unit**--A department, college, school, or other unit at a university or health-related institution, which has administrative authority over degree or certificate programs.

~~[(2) **Administrative change request**--A request that involves the creation of or changes to an academic administrative unit at a university or health-related institution.]~~

~~(2) [(3)]~~ **Board**--The Texas Higher Education Coordinating Board.

~~(3) [(4)]~~ **Certificate Program**--Any grouping of subject-matter courses which, when satisfactorily completed by a student, shall entitle him to a certificate or documentary evidence, other than a degree, of completion of a post-secondary course of study at a university or health-related institution.

~~(4) [(5)]~~ **Commissioner**--The Commissioner of Higher Education.

~~(5) [(6)]~~ **Compelling Academic Reason**--A justification for an undergraduate degree program consisting of more than 120 semester credit hours. Acceptable justifications are programmatic accreditation requirements, statutory requirements, and requirements for licensure/certification of graduates.

~~(6) [(7)]~~ **Degree program**--Any grouping of subject matter courses which, when satisfactorily completed by a student, shall entitle him or her to a degree from a public university or health-related institution.

~~(7) [(8)]~~ **Doctoral Graduation Rate**--The Doctoral Graduation Rate is the percent of students in an entering fall cohort for a specific degree program who graduate within 10 years. Doctoral graduation rates do not include students who received a master's degree.

~~(8) [(9)]~~ **Faculty publications**--Discipline-related refereed publications, books or book chapters, juried creative or performance accomplishments, and notices of discoveries filed and patents issued.

~~(9) [(10)]~~ **Faculty teaching load**--Total number of semester credit hours taught per academic year by faculty divided by the number of faculty.

~~(10) [(11)]~~ **Graduate-level certificate program**--A certificate program at a university or health-related institution that consists primarily of graduate-level courses.

~~(11) [(12)]~~ **Graduate placement**--The number and percent of graduates employed or engaged in further education or training, those still seeking employment, and unknown.

~~(12) [(13)]~~ **Lower-division degree or certificate program**--A degree or certificate program offered at a university or health-related institution that consists of lower-division courses and is equivalent to a program offered at a community or technical college.

~~(13) [(14)]~~ **Master's Graduation Rate**--The Master's Graduation Rate is the percent of students in an entering fall and spring cohort for a specific degree program who graduate within 5 years.

~~(14) [(15)]~~ **New Doctoral Degree Program**--A doctoral degree program that has been approved by the Coordinating Board for a period of less than five years.

~~(15) [(16)]~~ **Selected Public Colleges**--Those public colleges authorized to offer baccalaureate degrees in Texas.

~~(16) [(17)]~~ **Student time-to-degree**--The average of the number of semesters taken by program graduates from the time of enrollment in the program until graduation.

~~(17) [(18)]~~ **Upper-division certificate program**--A certificate program at a university or health-related institution that consists primarily of upper-division undergraduate courses.

§5.44. Presentations of Requests and Steps for Implementation.

(a) Requests for new degree programs shall be made in accordance with the following procedures.

(1) Approval of new bachelor's and master's programs shall be approved ~~[is automatic]~~ if all of the following conditions are met:

(A) The proposed program has institutional and governing board approval.

(B) The institution certifies compliance with the Standards for New Bachelor's and Master's Programs.

(C) The institution certifies that adequate funds are available to cover the costs of the new program.

(D) New costs during the first five years of the program would not exceed \$2 million.

(E) The proposed program is a non-engineering program (i.e., not classified under CIP code 14).

(F) The proposed program is not one which the institution previously offered and has been closed due to low productivity in the last 10 years.

(G) The proposed program would be offered by a university or health-related institution.

~~[(H) No objections to the proposed program are received by the Coordinating Board during the 30-day comment period.]~~

(2) If a proposed bachelor's or master's program meets the conditions in paragraph (1) of this subsection, the institution shall submit a request to the Assistant Commissioner of Workforce, Academic Affairs and Research to add the program. If a proposed program does not meet the conditions outlined in paragraph (1) of this subsection, the institution must submit a proposal using the standard degree program request form.

(3) If the minimum number of semester credit hours required to complete a proposed bachelor's program exceeds 120, the institution must provide detailed ~~[written]~~ documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 120-hour limit. The Coordinating Board will review the documentation provided and make a determination to approve or deny a request to exceed the 120-hour limit.

(4) The institution proposing the program shall notify all public institutions within 50 miles of the teaching site of their intention to offer the program at least 30 days prior to submitting their request to the Coordinating Board. ~~[The Coordinating Board shall post the proposed program online for public comment for a period of 30 days.]~~ If no objections occur, the Coordinating Board staff shall update the institution's program inventory accordingly. If objections occur, the proposing institution must resolve those objections prior to submitting the request to the Coordinating Board. If the proposing institution cannot resolve the objection(s), and the institution wishes to submit the proposed program, the proposing institution may request the assistance of the Assistant Commissioner of Workforce, Academic Affairs and Research to mediate the objections and determine whether the proposing institution may submit the proposed program. No new program shall be implemented until all objections are resolved. ~~[The Coordinating Board reserves the right to audit a certificate or degree program at any time to ensure compliance with any of the criteria outlined in paragraph (1) of this subsection.]~~

(5) The Coordinating Board reserves the right to audit a degree program at any time to ensure compliance with any of the criteria outlined in paragraph (1) of this subsection.

(6) ~~[(5)]~~ An institution requesting a new doctoral program shall submit a proposal using the standard doctoral program request

form. ~~[All requests for new doctoral programs require preliminary authority prior to the submission of a degree program request.]~~

(b) Requests for new certificate programs shall be made in accordance with the following procedures.

(1) New ~~[Approval of new]~~ undergraduate and graduate certificate programs shall be approved ~~[is automatic]~~ if all of the following conditions are met:

(A) - (C) (No change.)

~~[(D) No objections to the proposed certificate program are received by the Coordinating Board during the 30-day comment period.]~~

(2) If a proposed certificate program meets the conditions in paragraph (1) of this subsection, the institution shall submit a request to the Assistant Commissioner of Workforce, Academic Affairs and Research. If a proposed certificate program does not meet the conditions outlined in paragraph (1) of this subsection, the institution must submit a proposal using the standard program request form.

(3) The institution proposing the certificate program shall notify all public institutions within 50 miles of the teaching site of their intention to offer the certificate program at least 30 days prior to submitting their request to the Coordinating Board. [The Coordinating Board shall post the proposed program online for public comment for a period of 30 days.] If no objections occur, the Coordinating Board staff shall update the institution's program inventory accordingly. If objections occur, the proposing institution must resolve those objections prior to submitting the request to the Coordinating Board. If the proposing institution cannot resolve the objection(s), and the institution wishes to submit the proposed certificate program, the proposing institution may request the assistance of the Assistant Commissioner of Workforce, Academic Affairs and Research to mediate the objections and determine whether the proposing institution may submit the proposed certificate program. No new certificate program shall be implemented until all objections are resolved. ~~[The Coordinating Board reserves the right to audit a certificate program at any time to ensure compliance with any of the conditions outlined in paragraph (1) of this subsection.]~~

(4) The Coordinating Board reserves the right to audit a certificate program at any time to ensure compliance with any of the conditions outlined in paragraph (1) of this subsection.

~~[(e)]~~ Requests for administrative changes shall be made in accordance with the following procedures: Administrative changes include the creation of new administrative units—such as colleges, schools, divisions, and departments—as well as changes to existing administrative units, such as a name change, consolidation of existing units, or movement of a program into another unit.]

~~[(1)]~~ The Coordinating Board shall post the proposed administrative structure online for public comment for a period of 30 days for any administrative change request that concerns the creation of new administrative units such as colleges, schools, divisions, and departments. If no objections occur, the Coordinating Board staff shall update the institution's administrative unit structure accordingly. No new administrative unit shall be implemented until all objections are resolved. The Coordinating Board reserves the right to audit an administrative unit at any time to ensure compliance with any of the conditions outlined in paragraph (2) of this subsection.]

~~[(2)]~~ Approval of an administrative change is automatic if all of the following conditions are met:]

~~[(A)]~~ The administrative change has institutional and governing board approval:]

{(B) The institution certifies that adequate funds are available to cover the costs of the administrative change;}

{(C) New costs during the first five years would not exceed \$2 million;}

{(D) The administrative change meets all other criteria in §5.47 of this title (relating to Criteria for Administrative Change Requests); and}

{(E) The administrative change request concerns changes to existing administrative units, such as a name change, consolidation of existing units, or movement of a program into another unit; or, no objections to the proposed administrative change are received by the Coordinating Board during the 30-day comment period for those administrative change requests that concern the creation of new administrative units such as colleges, schools, divisions and departments.}

{(3) If a proposed administrative change meets the conditions in paragraph (2) of this subsection, the institution shall submit a request to the Assistant Commissioner of Academic Affairs and Research to update the administrative structure of the institution. If a proposed administrative change does not meet the conditions outlined in paragraph (2) of this subsection, the institution must submit a proposal using the standard administrative change request form.}

§5.48. Criteria for Certificate Programs at Universities and Health-Related Institutions.

(a) - (c) (No change.)

(d) The following certificate programs do not require Board approval or notification:

(1) - (2) (No change.)

(e) The following certificate programs shall be approved if the following conditions are met: [require only Board notification and are automatically approved; subject to review:]

(1) the proposed certificate is an upper-level undergraduate certificate [certificates] of 21 - 36 hours in disciplinary areas where the institution already offers an undergraduate degree program.

(2) the proposed certificate is a graduate-level and professional certificate [certificates] of 16 - 29 hours in disciplinary areas where the institution already offers a graduate program at the same level as the certificate.

(f) (No change.)

§5.49. Certification of Adequacy of Financing for New Academic Programs [and Administrative Changes].

(a) Under Texas Education Code, §61.055, each request submitted to the Board for a new department, school, degree or certificate program [or administrative change] shall be accompanied by a statement regarding the adequacy of funding from the chief executive officer of the requesting institution.

(b) When submitting documentation of costs and sources of funds, sources of funds shall be identified on forms provided by the Division of Workforce, Academic Affairs and Research [Universities and Health-Related Institutions] as:

(1) - (6) (No change.)

(c) The request for a new department, school, degree or certificate program[; or administrative change] shall also include a statement by the chief executive officer of the requesting institution certifying that the requested program or change shall not reduce the effectiveness or quality of existing programs, departments or schools.

§5.50. Approvals by the Commissioner.

(a) The Commissioner may approve proposals from the public universities and health-related institutions for new baccalaureate or master's degree programs [and academic administrative change requests;] and, in very limited circumstances, new doctoral programs, on behalf of the Board in accordance with the procedures and criteria specified in this section.

(b) To be approved by the Commissioner, a proposal for a new degree program must include certification in writing from the Board of Regents of a proposing institution, in a form prescribed by the Commissioner, that the following criteria have been met:

{(1) The proposed degree program is within the Table of Programs previously approved by the Board for the requesting institution.}

(1) [(2)] The curriculum, faculty, resources, support services, and other components of a proposed degree program are comparable to those of high quality programs in the same or similar disciplines offered by other institutions.

(2) [(3)] Clinical or in-service placements, if applicable, have been identified in sufficient number and breadth to support the proposed program.

(3) [(4)] The program is designed to be consistent with the standards of the Commission on Colleges of the Southern Association of Colleges and Schools, and with the standards of other applicable accrediting agencies; and is in compliance with appropriate licensing authority requirements.

(4) [(5)] The institution has provided credible evidence of long-term student interest and job-market needs for graduates; or, if proposed by a university, the program is appropriate for the development of a well-rounded array of basic baccalaureate degree programs at the institution where the principal faculty and other resources are already in place to support other approved programs and/or the general core curriculum requirements for all undergraduate students.

(5) [(6)] The program would not be unnecessarily duplicative of existing programs at other institutions.

(6) [(7)] Implementation and operation of the program would not be dependent on future Special Item funding.

(7) [(8)] New costs to the institution over the first five years after implementation of the program would not exceed \$2,000,000.

(c) In addition to the requirements listed in subsection (a) and (b) of this section, a new doctoral program may only be approved by the Commissioner if:

(1) - (3) (No change.)

(4) the institution has notified Texas public institutions that offer the proposed program or a related program and resolved any objections, and [no other university or health-related institution objects to the program during the 30-day comment period during which the request is posted on the web; and]

(5) there is a very strong link between the program and workforce needs or the economic development of the state.

(d) A proposal for a new degree program [or administrative change] must include a statement from the institution's chief executive officer certifying adequate financing and explaining the sources of funding to support the first five years of operation of the program [or administrative change].

(e) - (g) (No change.)

(h) ~~The [At the beginning of each month, the]~~ Commissioner shall make available to the public universities, health-related institutions, community/technical colleges, and Independent Colleges of Texas, Inc. a list of all pending proposals for new degree programs ~~[and administrative changes]~~. If an institution wishes to provide the Commissioner information supporting a concern it has about the approval of a pending proposal for a new degree program at another institution, it must do so within 14 days ~~[one month]~~ of the initial listing of the proposal, and it must also forward the information to the proposing institution.

(i) The authority given to the Commissioner to approve proposals from public universities and health-related institutions for new degree programs (and other related duties given under this section) may be delegated by the Commissioner to the Assistant Commissioner for Workforce, Academic Affairs and Research.

(j) (No change.)

§5.52. Review of Existing Degree Programs.

(a) In accordance with the requirements of the Southern Association of Colleges and Schools Commission on Colleges, each public institution of higher education shall have a process to review the quality and effectiveness of existing degree programs and for continuous improvement.

(b) (No change.)

(c) Each public university and health-related institution shall review all doctoral programs at least once every seven years.

(1) On a schedule to be determined by the Commissioner, institutions shall submit a schedule of review for all doctoral programs to the Assistant Commissioner of Workforce, Academic Affairs and Research.

(2) - (9) (No change.)

(10) Institutions shall submit a report on the outcomes of each review, including the evaluation of the external reviewers and actions the institution has taken or will take to improve the program, and shall deliver these reports to the Workforce, Academic Affairs and Research Division no later than 180 ~~[90]~~ days after the reviewers have submitted their findings to the institution.

(11) (No change.)

(d) Each public university and health-related institution shall review all stand-alone master's programs at least once every seven years.

(1) On a schedule to be determined by the Commissioner, institutions shall submit a schedule of review for all master's programs to the Assistant Commissioner of Workforce, Academic Affairs and Research.

(2) - (9) (No change.)

(10) Institutions shall submit a report of the outcomes of each review, including the evaluation of the external reviewer(s) and actions the institution has taken or will take to improve the program, and shall deliver these reports to the Workforce, Academic Affairs and Research Division no later than 180 ~~[90]~~ days after the reviewer(s) have submitted their findings to the institution.

(11) (No change.)

(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301246

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 25, 2013

For further information, please call: (512) 427-6114



SUBCHAPTER C. APPROVAL OF NEW ACADEMIC PROGRAMS AND ADMINISTRATIVE CHANGES AT PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND REVIEW OF EXISTING DEGREE PROGRAMS

19 TAC §5.47

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Higher Education Coordinating Board or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of §5.47, concerning Criteria for Administrative Change Requests. The intent of this repeal is to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for changes to administrative units at public universities and health-related institutions.

Dr. Stacey Silverman, Interim Assistant Commissioner for Workforce, Academic Affairs and Research, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local governments as a result of repealing the section.

Dr. Silverman has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated will be to reduce the amount of time spent by public institutions and Board staff in submitting, reviewing, and approving requests for changes to administrative units at public universities and health-related institutions. The benefits would also include better coordination and efficiency of delivery between public institutions offering similar degree and certificate programs. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposed repeal may be submitted by mail to Stacey Silverman, Interim Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at WAARcomments@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code, Chapter 61, Subchapter C, §61.051(e), which states that no new department, school, degree program, or certificate program may be added at any public institution of higher education except with specific prior approval of the board.

The repeal affects Texas Education Code, §61.051(e).

§5.47. Criteria for Administrative Change Requests.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2013.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 25, 2013

For further information, please call: (512) 427-6114



TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

22 TAC §501.75

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.75, concerning Confidential Client Communications.

The amendment to §501.75 will clarify that a CPA may provide client communications to the executors and administrators of the estate of a deceased person as the authorized representative of the client and to the successor entity of a predecessor entity when the predecessor entity ceases to exist and no one exists to give permission on behalf of the predecessor entity. It also clarifies that if a client shares his communications between him and his CPA with the public, those communications are no longer considered confidential communications.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of the adoption of the proposed amendment will be a better understanding as to when a CPA may release client communications.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.75. Confidential Client Communications.

(a) Except by permission of the client or the authorized representatives of the client, a person or any partner, officer, shareholder, or employee of a person shall not voluntarily disclose information communicated to him by the client relating to, and in connection with, professional accounting services or professional accounting work rendered to the client by the person. Such information shall be deemed confidential. The following includes, but is not limited to, examples of authorized representatives: [However, nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by applicable federal laws, federal government regulations, including requirements of the PCAOB, under a summons under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments; the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) and its subsequent amendments, or the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) and its subsequent amendments; by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures pursuant to a court order signed by a judge, a congressional or grand jury subpoena; investigations or proceedings under the Act, ethical investigations conducted by private professional organizations; or in the course of peer reviews.]

(1) the authorized representative of a successor entity becomes the authorized representative of the predecessor entity when the predecessor entity ceases to exist and no one exists to give permission on behalf of the predecessor entity; and

(2) an executor/administrator of the estate of a deceased client possessing an order signed by a judge is an authorized representative of the estate.

(b) The provisions contained in subsection (a) of this section do not prohibit the disclosure of information required to be disclosed by:

(1) applicable federal laws, federal government regulations, including requirements of the PCAOB;

(2) a summons under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments;

(3) a summons under the provisions of the Securities Act of 1933 (15 U.S.C. §77a et seq.) and its subsequent amendments;

(4) a summons under the provisions of the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) and its subsequent amendments;

(5) the public accounting profession in reporting on the examination of financial statements;

(6) a court order signed by a judge;

(7) a congressional or grand jury subpoena;

(8) investigations or proceedings under the Act;

(9) ethical investigations conducted by a private professional organization; or

(10) in the course of peer reviews.

(c) Interpretive comment. The provisions contained in subsection (a) of this section do not prohibit the disclosure of information already made public, including information disclosed to others not having a confidential communications relationship with the client or authorized representative of the client.

(d) Interpretive comment. The definition of a successor entity does not include a purchase of assets of a predecessor entity.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301194

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



SUBCHAPTER E. RESPONSIBILITIES TO THE BOARD/PROFESSION

22 TAC §501.90

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.90, concerning Discreditable Acts.

The amendment to §501.90 clarifies that it is not a discreditable act to disclose client communications pursuant to a congressional or grand jury subpoena or pursuant to applicable federal laws.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a clarification of the instances in which client communications may be disclosed.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.90. Discreditable Acts.

A person shall not commit any act that reflects adversely on that person's fitness to engage in the practice of public accountancy. A discreditable act includes but is not limited to:

(1) fraud or deceit in obtaining a certificate as a CPA or in obtaining registration under the Act or in obtaining a license to practice public accountancy;

(2) dishonesty, fraud or gross negligence in the practice of public accountancy;

(3) violation of any of the provisions of Subchapter J or §901.458 of the Act (relating to Loss of Independence) applicable to a person certified or registered by the board;

(4) final conviction of a felony or imposition of deferred adjudication or community supervision in connection with a criminal prosecution of a felony under the laws of any state or the United States;

(5) final conviction of any crime or imposition of deferred adjudication or community supervision in connection with a criminal prosecution, an element of which is dishonesty or fraud under the laws of any state or the United States, a criminal prosecution for a crime of moral turpitude, a criminal prosecution involving alcohol abuse or controlled substances, or a criminal prosecution for a crime involving physical harm or the threat of physical harm;

(6) cancellation, revocation, suspension or refusal to renew authority to practice as a CPA or a public accountant by any other state for any cause other than failure to pay the appropriate registration fee in such other state;

(7) suspension or revocation of or any consent decree concerning the right to practice before any state or federal regulatory or licensing body for a cause which in the opinion of the board warrants its action;

(8) knowingly participating in the preparation of a false or misleading financial statement or tax return;

(9) fiscal dishonesty or breach of fiduciary responsibility of any type;

(10) failure to comply with a final order of any state or federal court;

(11) repeated failure to respond to a client's inquiry within a reasonable time without good cause;

(12) intentionally misrepresenting facts or making a misleading or deceitful statement to a client, a board, board staff or any person acting on behalf of the board;

(13) giving intentional false sworn testimony or perjury in court or in connection with discovery in a court proceeding or in any communication to the board or any other federal or state regulatory or licensing body;

(14) threats of bodily harm or retribution to a client;

(15) public allegations of a lack of mental capacity of a client which cannot be supported in fact;

(16) voluntarily disclosing information communicated to the person by an employer, past or present, or through the person's employment in connection with accounting services rendered to the employer, except:

(A) by permission of the employer;

(B) pursuant to the Government Code, Chapter 554 (commonly referred to as the "Whistle Blowers Act");

(C) pursuant to:

(i) a court order signed by a judge; ~~or~~

(ii) a summons under the provisions of:

(I) ~~[under the provisions of]~~ the Internal Revenue Code of 1986 and its subsequent amendments;~~;~~

(II) the Securities Act of 1933 (15 U.S.C. §77a et seq.) and its subsequent amendments;~~;~~ or

(III) the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) and its subsequent amendments;

(iii) a congressional or grand jury subpoena; or

(iv) applicable federal laws, federal government regulations, including requirements of the PCAOB;

(D) in an investigation or proceeding by the board;

(E) in an ethical investigation conducted by a professional organization of CPAs;

(F) in the course of a peer review under §901.159 of the Act (relating to Peer Review); or

(G) any information that is required to be disclosed by the professional standards for reporting on the examination of a financial statement.

(17) breaching the terms of an agreed consent order entered by the board or violating any Board Order.

(18) Interpretive Comment: The board has found in §519.7 of this title (relating to Misdemeanors that Subject a Licensee or Certificate ~~or Registration~~ Holder to Discipline by the Board) and §525.1 of this title (relating to Applications for the Uniform CPA Examination, Issuance of the CPA Certificate, or a License) that any crime of moral turpitude directly relates to the practice of public accountancy. A crime of moral turpitude is defined in this chapter as a crime involving grave infringement of the moral sentiment of the community. The board has found in §519.7 of this title that any crime involving alcohol abuse or controlled substances directly relates to the practice of public accountancy.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301195

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



CHAPTER 527. PEER REVIEW

22 TAC §527.1

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.1, concerning Establishment of Peer Review Program.

The amendment to §527.1 will add a reference to the Act.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.1. Establishment of Peer Review Program.

(a) Pursuant to §901.159 of the Act (relating to Peer Review), the board establishes a peer review program to monitor CPAs' compliance with applicable accounting, auditing and other attestation standards adopted by generally recognized standard-setting bodies. The program may include education, remediation, disciplinary sanctions or other corrective action where reporting does not comply with professional or regulatory standards.

(b) This chapter shall not require any firm to become a member of any sponsoring organization.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



22 TAC §527.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.2, concerning Definitions.

The amendment to §527.2 will make grammatical and formatting changes for clarity and brevity and will clarify that internal audits are not within the definition of a special report as defined in this chapter.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.2. Definitions.

The following words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Review" or "review program" means the review conducted under the peer review program.

(2) "Review year" means the one-year (twelve-month) period covered by the review. Engagements selected for review normally would have periods ending during the year under review.

(3) "Sponsoring organization" means an entity that meets the standards specified by the board for administering the review. The board shall periodically publish a list of sponsoring organizations, which have been approved by the board.

(4) "Special reports" include but are not limited to reports issued under professional standards in connection with the following:

(A) specified elements, accounts, or items of a financial statement;

(B) compliance with aspects of contractual agreements or regulatory requirements related to audited financial statements;

(C) financial presentations to comply with contractual agreements or regulatory provisions; or

(D) financial information presented in prescribed forms or schedules that require a prescribed form of auditor's reports. ~~;~~ ~~or~~

~~[(E) internal audits by a firm for a client of a governmental entity.]~~

(5) "Firm inspection program" means the process of firm inspection administered by the PCAOB.

(6) "Rating" of a peer review refers to the type of report issued. The three types of reports are pass, pass with deficiency(ies), or fail. The peer review rating is clearly indicated in the final paragraph of the review report.

(7) "Acceptance" of an AICPA or TSCPA peer review is the date that the sponsoring organization's peer review report committee (PRRC), referred to in §527.9(a)(1) of this chapter [title] (relating to Procedures for a Sponsoring Organization), is presented the peer review report on a review with the rating of pass and the PRRC approves the review. The acceptance date and in this case the completion date of the peer review are the same date and is noted in a letter from the

administering entity to the reviewed firm. The PRRC will be presented with the peer review report and the firm's letter of response on reviews with a rating of pass with deficiencies or fail. Ordinarily, the PRRC will require the reviewed firm to take corrective action(s) and those actions will be communicated in a letter to the firm from the administering entity. In this circumstance, the "acceptance date" is defined as the date that the reviewed firm signs the letter from the administering entity agreeing to perform the required corrective action(s).

(8) "Completion date" of an AICPA or TSCPA peer review is the date that the sponsoring organization's PRRC, referred to in §527.9(a)(1) of this chapter [title], is presented the corrective action and the committee decides that the reviewed firm has performed the agreed-to corrective action(s) to the committee's satisfaction and the committee requires no additional corrective action(s) by the firm. The date is noted in a final letter from the administering entity to the reviewed firm.

(9) "AICPA Public File" is the file for firms that are members of [the] AICPA's Employee Benefit Plan Audit Quality Center, Governmental Audit Quality Center, or Private Companies Practice Section who post their review information to this public file on [the] AICPA's web site as a membership requirement. Information in the public file includes the firm's most recently accepted peer review report and the firm's response thereto, if any.

(10) "Peer Review State Board Access (PRSBA)" is the state board limited access web site that provides the most recently accepted peer review report, the firm's letter of response (LOR), the corrective action letter (CAL), and the final letter of acceptance (FLOA).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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TRD-201301197

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



22 TAC §527.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.3, concerning Standards for Peer Reviews and Sponsoring Organizations.

The amendment to §527.3 will add acronyms and delete unnecessary language.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of

adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.3. Standards for Peer Reviews and Sponsoring Organizations.

(a) The board adopts ["]Standards for Performing and Reporting on Peer Reviews["] (SPRPR) promulgated by [the] AICPA and for public company audit firms, the firm inspection standards required under the Sarbanes-Oxley Act of 2002 (SOX), as its minimum standards for review of firms.

(b) Qualified sponsoring organizations shall be the AICPA Peer Review Program, the TSCPA's Peer Review Program and state CPA societies fully involved in the administration of the AICPA Peer Review Program, the PCAOB, and such other entities which are approved by the board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301198

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



22 TAC §527.5

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.5, concerning Successive Deficient Reviews.

The amendment to §527.5 deletes grammatically unnecessary language and replaces the term "thirty" with "30."

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small busi-

nesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.5. *Successive Deficient Reviews.*

(a) A firm, including a succeeding firm, which receives two consecutive reviews with a rating of pass with deficiencies and/or fail on a system or engagement review may be required to have an accelerated review by the Peer Review Committee.

(b) If that accelerated review results in a rating of pass with deficiencies or fail:

(1) the firm may complete attest engagements for which field work has already begun only if:

(A) prior to issuance of any report, the engagement is reviewed and approved by a third party reviewer acceptable to the chairman of the [appropriate] Technical Standards Review Committee or the Peer Review Committee;[5] and

(B) the engagement is completed within 30 [thirty] days of the acceptance of the peer review report, and LOR by the sponsoring organization; and

(2) the firm shall not perform any other attest service including any accounting and/or auditing engagements, including, audits, reviews, compilations (as well as compilations where no report is required), forecasts, projections, or other special reports for a period of three years or until given permission by the board to resume this practice.

(c) A firm may petition the board for a waiver from the provisions of this rule.

(d) The board at its discretion may require a firm which has received a rating of pass with deficiencies or fail to have an accelerated peer review or subject it to any other disciplinary or corrective action under the Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



22 TAC §527.6

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.6, concerning Reporting to the Board.

The amendment to §527.6 deletes unnecessary language and replaces the term "thirty" with "30" and "ten" with "10."

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.6. *Reporting to the Board.*

(a) A firm must submit to the board:

(1) a copy of the peer review report and the FLOA from the sponsoring organization, if such report has a rating of pass;

(2) a copy of the peer review report, the firm's LOR, the CAL, and FLOA if the report has a rating of pass with deficiencies or fail; or

(3) a copy of any final report resulting from any inspection by the PCAOB firm inspection program together with documentation of any significant deficiencies and findings and the firm's response.

(b) Any report or document submitted to the board under this section is confidential pursuant to the Act.

(c) Any report or document (collectively referred to as "documents") required to be submitted under subsection (a) of this section shall be filed with the board as provided below:

(1) ~~Peer~~ [For peer reviews scheduled after December 1, 2009; peer] review documents will be made available by the TSCPA for firms enrolled in the AICPA and TSCPA Peer Review Programs and administered by the TSCPA. Peer review documents will be made available by the TSCPA by posting such documents within 30 [thirty] days of issuing its notice of acceptance to such firms on the PRSBA web site. The [For reviews scheduled prior to December 1, 2009; the] reviewed firm must, within 10 [ten] days of receipt of the notice of completion from the TSCPA, complete the board's Peer Review Compliance Reporting form and submit it to the board along with the required documents.

(2) Firms otherwise enrolled in the AICPA peer review program (including those whose peer reviews are administered by the NPRC) must, within 10 [ten] days of receipt of the notice of completion from the sponsoring organization, complete the board's Peer Review Compliance Reporting form and submit it to the board along with the required documents. However, this requirement may be met by allowing the firm's peer review documents to be posted on the PRSBA web site, with access granted to the board within 30 [thirty] days of issuing its notice of acceptance to such firms on the PRSBA web site.

(3) Firms enrolled in the PCAOB firm inspection program must, within 10 [ten] days of receipt of the notice of completion from the PCAOB, complete the board's Peer Review Compliance Reporting form and submit it to the board along with the required documents.

(d) The information required under subsection (c) of this section must be filed with the board either by mail or electronically such as by fax, email, or PRSBA web site.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301200

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842

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22 TAC §527.7

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.7, concerning Peer Review Oversight Board.

The amendment to §527.7 clarifies that the Peer Review Oversight Board can examine reviews based upon criteria they have adopted, deletes unnecessary language and replaces terms with acronyms as defined in §527.2.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be providing the public with a better understanding of the Peer Review Oversight Board's authority and improving the clarity of the rule.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.7. *Peer Review Oversight Board.*

(a) The board shall retain the Peer Review Oversight Board (PROB) for the purpose of:

(1) monitoring sponsoring organizations to provide reasonable assurance that peer reviews are being conducted and reported in accordance with Standards for Performing and Reporting on Peer Reviews (the Standards) promulgated by the AICPA Peer Review Board;

(2) reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review standards; and

(3) reporting to the board on the conclusions and recommendations reached as a result of performing the functions in paragraphs (1) and (2) of this subsection.

(b) Information concerning a specific firm or reviewer obtained by the PROB during oversight activities shall be confidential, and the firm's or reviewer's identity shall not be reported to the board. Reports submitted to the board will not contain information concerning specific firms or reviewers. Members of the PROB will be required to execute a confidentiality statement for the sponsoring organization which they oversee.

(c) ~~The [Effective September 1, 2009, the]~~ PROB shall consist of three members who are active licensed Texas CPAs. No member of the PROB shall be current members of the board or one of its committees, the TSCPA's Peer Review or Professional Conduct Committee, or the AICPA Professional Ethics Executive Committee (including subcommittees). The members should have extensive experience in accounting and auditing and currently be in the practice of public accountancy at the partner (or equivalent) level, and shall be members of the TSCPA or the AICPA. The member's firm must have received a report with a rating of pass or an unmodified opinion from its last peer review. Compensation of PROB members shall be set by the board.

(d) The PROB shall make an annual recommendation to the board as to the qualifications of an approved sponsoring organization to continue as an approved sponsoring organization on the basis of the results of the following procedures:

(1) Where the sponsoring organization is the AICPA/NPRC, state CPA societies other than Texas, fully involved in the administering AICPA Peer Review Program, or the PCAOB, PROB shall review the published reports of those entities or successors, to determine that there is an acceptable level of oversight;

(2) Where the sponsoring organization is other than those listed in paragraph [subsection (d)](1) of this subsection [section], PROB shall perform the following functions:

(A) At least one member of the PROB shall attend all meetings of each sponsoring organization's PRRC. Certain PRRC meetings may be conducted via telephone. In those instances, the PROB may join the conference call.

(B) During such visits, the PROB shall:

(i) meet with the organization's peer review committee during the committee's consideration of peer review documents;

(ii) evaluate the organization's procedures for administering the peer review program;

(iii) examine, on the basis of a random selection or other criteria adopted by PROB, a number of reviews performed by the

organization to include, at a minimum, a review of the report on the peer review, the firm's response to the matters discussed, the sponsoring organization's FLOA [letter of acceptance] outlining any additional corrective or monitoring procedures, and the required technical documentation maintained by the sponsoring organization on the selected reviews; and

(iv) expand the examination of peer review documents if significant deficiencies, problems, or inconsistencies are encountered during the analysis of the materials.

(e) In the evaluation of policies and procedures of sponsoring organization applicants, the PROB shall:

(1) examine the policies as drafted by the applicant to determine that they will provide reasonable assurance of conforming with the standards for peer reviews;

(2) evaluate the procedures proposed by the applicant to determine that:

(A) assigned reviewers are appropriately qualified to perform the review for the specific firm;

(B) reviewers are provided with appropriate materials;

(C) the applicant has provided for consulting with the reviewers on problems arising during the review and that specified occurrences requiring consultation are outlined;

(D) the applicant has provided for the assessment of the results of the review; and

(E) the applicant has provided for an independent report acceptance body that considers and accepts the reports of the review and requires corrective actions by firms with significant deficiencies;

(3) make recommendations to the board as to approval of the applicant as a sponsoring organization.

(f) Annually the PROB shall provide the board's Peer Review Committee with a report on the continued reliance of sponsoring organizations' peer reviews. The PROB report shall provide reasonable assurance that peer reviews are being conducted and reported on consistently and in accordance with the Standards for Performing and Reporting on Peer Reviews (the Standards) promulgated by the AICPA Peer Review Board. A summary of oversight visits shall be included with the annual report.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301201

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842

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22 TAC §527.9

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.9, concerning Procedures for a Sponsoring Organization.

The amendment to §527.9 deletes unnecessary language.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.9. Procedures for a Sponsoring Organization.

(a) To qualify as a sponsoring organization, an entity must submit a peer review administration plan to the board for review and ap-

proval by the PROB [Peer Review Oversight Board (PROB)]. The plan of administration must:

(1) establish a PRRC [peer review report committee (PRRC)] and subcommittees as needed, and provide professional staff as needed for the operation of the peer review program;

(2) establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the sponsoring organization;

(3) establish procedures for resolving any disagreement which may arise out of the performance of a peer review;

(4) establish procedures to resolve matters which may lead to the dismissal of a firm from the peer review program, and conduct hearings pursuant to those procedures;

(5) establish procedures to evaluate and document the performance of each reviewer, and conduct hearings, which may lead to the disqualification of a reviewer who does not meet the AICPA standards;

(6) require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the AICPA; and

(7) provide for periodic reports to the PROB on the results of the peer review program.

(b) A sponsoring organization is subject to review by the board and the PROB.

(c) The PCAOB is exempt from these requirements.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301202

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



22 TAC §527.10

The Texas State Board of Public Accountancy (Board) proposes an amendment to §527.10, concerning Peer Review Report Committee.

The amendment to §527.10 will add a reference to the Act and delete unnecessary language.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be none.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be none.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be none.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a rule that is easier to read and understand.

The probable economic cost to persons required to comply with the amendment will be insignificant.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose any duties or obligations upon small businesses.

Mr. Treacy has determined that an Economic Impact Statement and a Regulatory Flexibility Analysis are not required because the proposed amendment will not adversely affect small or micro businesses.

The Board requests comments on the substance and effect of the proposed rule from any interested person. Comments must be received at the Board no later than noon on May 6, 2013. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted, finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§527.10. *Peer Review Report Committee.*

A PRRC [peer review report committee (PRRC)] is comprised of CPAs practicing public accountancy and formed by a sponsoring organization for the purpose of accepting peer review reports submitted by firms on peer review engagements.

(1) Each member of a PRRC must be active in the practice of public accountancy at a supervisory level in the accounting or auditing function while serving on the committee. The member's firm must be enrolled in an approved practice-monitoring program and have received a report with a rating of pass or an unmodified report on its most recently completed peer review. A majority of the committee members must satisfy the qualifications required of system peer review team captains as established and reported in the AICPA Standards for Performing and Reporting on Peer Reviews.

(2) Each member of a PRRC must be approved for appointment by the governing body of the sponsoring organization.

(3) In determining the size of a PRRC, the requirement for broad industry experience, and the likelihood of some members needing to recuse themselves during the consideration of some reviews as a result of the members' close association to the firm or because they performed the review, shall be considered.

(4) No more than one PRRC member may be from the same firm.

(5) The PRRC members' terms shall be staggered to provide for continuity.

(6) A PRRC member may not concurrently serve as:

(A) a member of any state's board of accountancy; or

(B) a member of any state's CPA society's ethics committee.

(7) A PRRC member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence as defined in §501.70 of this title (relating to Independence) or has a conflict of interest. Examples of conflicts of interest include, but are not limited to:

(A) the member's firm has performed the most recent peer review of the reviewed firm's accounting and auditing practice;

(B) the member served on the review team, which performed the current or the immediately preceding review of the enrolled firm; or

(C) the member believes he cannot be impartial or objective.

(8) Each PRRC member must comply with the confidentiality requirements of §901.161 of the Act (relating to Privilege for Certain Information). The sponsoring organization may annually require its PRRC members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.

(9) A PRRC decision to accept a report must be made by not fewer than three members who satisfy the above criteria.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301203

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 305-7842



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 255. RULEMAKING PROCEDURES

37 TAC §255.4

The Texas Commission on Jail Standards proposes an amendment to §255.4, concerning Petition of Interested Persons, in order to conform to Government Code §2001.021.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§255.4. *Petition of Interested Persons.*

Any interested person may petition the commission requesting the adoption, amendment, or repeal of any of its rules. Within 60 [90] days after receiving such petition, the commission shall initiate rulemaking proceedings or deny the petition in writing, stating its reasons for the denial. In order to receive consideration by the commission, the petition must set forth:

(1) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301205

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



CHAPTER 257. CONSTRUCTION APPROVAL RULES

37 TAC §257.9

The Texas Commission on Jail Standards proposes an amendment to §257.9, concerning Laws Applicable, because the two codes cited have been superseded and replaced by the International Building Code, which incorporates both codes into one.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§257.9. *Laws Applicable.*

Facilities constructed prior to subsequent amendments to these rules, entailing changes, additions, or deletions to the structure of equipment therein, shall not be required to meet the changes unless the change also establishes a date by which the change shall be effected. The facility shall conform to the building, safety, and health requirements of state and local authority. The facility shall also conform to the Texas Accessibility Standards in effect at the time of construction [~~Title 36, CFR, Part 1191, Sections 11.2.3(1) and (2), and Chapter 12~~] in its entirety regarding the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The commission adopts these rules and 16 TAC §68.20 (relating to Buildings and Facilities Subject to Compliance with the Texas Accessibility Standards) by reference [~~the Texas Accessibility Standards, Article 9102, Texas Civil Statutes, by reference~~]. State standards for a facility which exceed those of the local authority shall take precedence. Where local building codes do not exist, the county shall designate a building code currently in effect; otherwise the International Building Code will apply. [~~the Uniform Building Code or Standard Building Code, latest editions, will apply.~~]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301206

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



CHAPTER 259. NEW CONSTRUCTION RULES

SUBCHAPTER B. NEW MAXIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.115

The Texas Commission on Jail Standards proposes an amendment to §259.115, concerning Functions, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.115. Functions.

Minimum space allocations should provide for the following:

- (1) (No change.)
- (2) Detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer [guard] stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301207

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §259.122

The Texas Commission on Jail Standards proposes an amendment to §259.122, concerning Control Rooms/Guard Stations, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.122. Control Rooms/Jailer [Guard] Stations.

A sufficient number of control rooms/jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories shall be located within the security perimeter and in close proximity to control rooms and jailer [guard] stations. The design shall allow access to control rooms without requiring staff to enter inmate safety vestibules or inmate activity areas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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TRD-201301226

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

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For further information, please call: (512) 463-8236



SUBCHAPTER C. NEW LOCKUP DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.216

The Texas Commission on Jail Standards proposes an amendment to §259.216, concerning Functions, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.216. Functions.

Minimum space allocations should provide for the following:

- (1) (No change.)
- (2) Detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer ~~guard~~ stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301208

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §259.223

The Texas Commission on Jail Standards proposes an amendment to §259.223, concerning Control Rooms/Guard Stations, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.223. *Control Rooms/Jailer ~~Guard~~ Stations.*

A sufficient number of control rooms/jailer ~~guard~~ stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories shall be located within the security perimeter and in close proximity to control rooms and jailer ~~guard~~ stations. The design shall allow access to control rooms without requiring staff to enter inmate safety vestibules or inmate activity areas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301209

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

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For further information, please call: (512) 463-8236



SUBCHAPTER D. NEW MEDIUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.313

The Texas Commission on Jail Standards proposes an amendment to §259.313, concerning Functions, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.313. *Functions.*

Minimum space allocations should provide for the following:

- (1) (No change.)
- (2) Detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer ~~guard~~ stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301210

Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Earliest possible date of adoption: May 5, 2013
For further information, please call: (512) 463-8236



37 TAC §259.318

The Texas Commission on Jail Standards proposes an amendment to §259.318, concerning Control Rooms/Guard Stations, to provide uniformity by changing the term "guard" to "jailer".

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.318. *Control Rooms/Jailer [Guard] Stations.*

A sufficient number of control rooms/jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories shall be located within the security perimeter and in close proximity to control rooms and jailer [guard] stations. The design shall allow access to control rooms without requiring staff to enter inmate safety vestibules or inmate activity areas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301211
Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Earliest possible date of adoption: May 5, 2013
For further information, please call: (512) 463-8236



SUBCHAPTER E. NEW MINIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.413

The Texas Commission on Jail Standards proposes an amendment to §259.413, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.413. *Functions.*

Minimum space allocations shall provide for the following.

- (1) (No change.)
- (2) Detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer [guard] stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301212
Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Earliest possible date of adoption: May 5, 2013
For further information, please call: (512) 463-8236



37 TAC §259.418

The Texas Commission on Jail Standards proposes an amendment to §259.418, concerning Control Rooms/Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the

clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.418. Control Rooms/Jailer [Guard] Stations.

A sufficient number of control rooms/jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories shall be in close proximity to control rooms and jailer [guard] stations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301213

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



SUBCHAPTER F. TEMPORARY HOUSING--TENTS

37 TAC §259.514

The Texas Commission on Jail Standards proposes an amendment to §259.514, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.514. Jailer [Guard] Stations.

Jailer [Guard] stations shall be provided within sufficient proximity to inmate living and day room areas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301214

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



SUBCHAPTER G. TEMPORARY HOUSING--BUILDINGS

37 TAC §259.614

The Texas Commission on Jail Standards proposes an amendment to §259.614, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.614. Jailer [Guard] Stations.

Jailer [Guard] stations shall be provided within sufficient proximity to inmate living and day room areas. They should be so arranged that visibility into the housing areas is provided.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301215

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



SUBCHAPTER H. NEW LONG-TERM INCARCERATION DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.715

The Texas Commission on Jail Standards proposes an amendment to §259.715, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.715. *Functions.*

Minimum space allocations shall provide for the following:

- (1) (No change.)
- (2) Detention:
 - (A) housing;
 - (B) separation;
 - (C) visiting;
 - (D) jailer [guard] stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301216

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §259.722

The Texas Commission on Jail Standards proposes an amendment to §259.722, concerning Control Rooms/Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.722. *Control Rooms/Jailer [Guard] Stations.*

A sufficient number of control rooms/jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories shall be located within the security perimeter and in close proximity to control rooms and jailer [guard] stations. The design shall allow access to control rooms without requiring staff to enter inmate safety vestibules or inmate activity areas.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301217

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



CHAPTER 260. COUNTY CORRECTIONAL CENTERS

SUBCHAPTER B. CCC DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §260.113

The Texas Commission on Jail Standards proposes an amendment to §260.113, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small

businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§260.113. Functions.

Minimum space allocations shall provide for the following:

- (1) (No change.)
- (2) Detention:
 - (A) housing;
 - (B) visiting; and
 - (C) jailer [guard] stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301218

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §260.118

The Texas Commission on Jail Standards proposes an amendment to §260.118, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§260.118. Jailer [Guard] Stations.

A sufficient number of jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories should be provided in close proximity to jailer [guard] stations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301219

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



CHAPTER 261. EXISTING CONSTRUCTION RULES

SUBCHAPTER A. EXISTING MAXIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §261.115

The Texas Commission on Jail Standards proposes an amendment to §261.115, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.115. Functions.

Minimum space allocations should provide for, but not be limited to:

- (1) (No change.)
- (2) detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer [guard] stations;

(3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301220

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §261.122

The Texas Commission on Jail Standards proposes an amendment to §261.122, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.122. *Jailer [Guard] Stations.*

A sufficient number of jailer ~~[guard]~~ stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories should be provided in close proximity to jailer ~~[guard]~~ stations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301221

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



SUBCHAPTER B. EXISTING LOCKUP DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §261.215

The Texas Commission on Jail Standards proposes an amendment to §261.215, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.215. *Functions.*

Minimum space allocations should provide for, but not be limited to:

- (1) (No change.)
- (2) detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer ~~[guard]~~ stations;
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301222

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §261.222

The Texas Commission on Jail Standards proposes an amendment to §261.222, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.222. Jailer [Guard] Stations.

A sufficient number of jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories should be provided in close proximity to jailer [guard] stations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301223

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



SUBCHAPTER C. EXISTING MINIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §261.312

The Texas Commission on Jail Standards proposes an amendment to §261.312, concerning Functions, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.312. Functions.

Minimum space allocations should provide for, but not be limited to:

- (1) (No change.)
- (2) Detention:
 - (A) inmate housing;
 - (B) segregation;
 - (C) visiting;
 - (D) jailer [guard] stations.
- (3) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301224

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



37 TAC §261.317

The Texas Commission on Jail Standards proposes an amendment to §261.317, concerning Guard Stations, to provide uniformity in terminology used.

Brandon S. Wood, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Wood has also determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment as proposed will be the clarification of existing standards. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Diana Spiller, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§261.317. Jailer [Guard] Stations.

A sufficient number of jailer [guard] stations shall be provided on each floor where inmates are housed. Staff toilets and lavatories should be provided in close proximity to jailer [guard] stations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2013.

TRD-201301225

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 463-8236



PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 343. SECURE JUVENILE PRE-ADJUDICATION DETENTION AND POST-ADJUDICATION CORRECTIONAL FACILITIES

The Texas Juvenile Justice Department (TJJD) proposes to amend §§343.100, 343.212, 343.224, 343.240, 343.288, 343.302, 343.332, 343.340, 343.342, 343.346, 343.348, 343.350, 343.400, 343.404, 343.446, 343.600, 343.602, 343.604, 343.638, 343.810, and 343.812.

Annual Reviews and Inspections

Six rules will be amended to clarify the requirement to conduct certain reviews and inspections annually. The amended rules will allow for the review or inspection, as applicable, to be completed no later than the last day of the calendar month of the previous year's review or inspection.

In §343.212 (concerning Duties of Facility Administrator), this change will apply to the facility administrator's review of the facility's policies and procedures.

In §343.224 (concerning Alternate Power Source), this change will apply to inspection of the alternate power source system.

In §343.240 (concerning Safety Codes), this change will apply to completion of the Life Safety Code/fire safety inspection.

In §343.302 (concerning Menu Plans), this change will apply to the dietician's review and approval of menu plans.

In §343.342 (concerning Review and Dissemination of Suicide Prevention Plan), this change will apply to the review of the facility's suicide prevention plan.

In §343.810 (concerning Mechanical Restraint), this change will apply to inspection of mechanical restraint devices.

Supervision Logs

Two rules will be amended to remove the requirement that supervision logs must include the title of the juvenile supervision officer who is providing supervision.

In §343.348 (concerning Supervision of High Risk Suicidal Youth), this change will affect the supervision log for residents classified as a high risk for suicidal behavior.

In §343.350 (concerning Supervision of Moderate Risk Suicidal Youth), this change will affect the supervision log for residents classified as a moderate risk for suicidal behavior.

Definitions

Several changes are proposed for §343.100 (concerning Definitions). The definition for *behavioral health assessment* will be expanded to include a more detailed description. Definitions will be added for *psychological evaluation* and *TJJD*. Clarification will be added to indicate that any reference to the term *commission* means TJJD. The term *mental health paraprofessional* will be removed. The term *mental health professional* will be changed to *mental health provider*. Twelve rules will require conforming changes as a result of these new and deleted terms, as described below.

In §343.288 (concerning Disciplinary Seclusion), the term *mental health professional* will be replaced by *mental health provider*.

In §343.332 (concerning Behavioral Health Care Services for Sexual Abuse Victims), the term *mental health professional* will be replaced by *mental health provider*. The agency's name will also be updated.

In §343.340 (concerning Suicide Prevention Plan), the term *mental health professional* will be replaced by *mental health provider*.

In §343.346 (concerning Mental Health Referral of High Risk Suicidal Youth), the term *mental health professional* will be replaced by *mental health provider*.

In §343.348 (concerning Supervision of High Risk Suicidal Youth), the term *mental health professional* will be replaced by *mental health provider*. The term *mental health paraprofessional* will be deleted. These changes are in addition to the changes relating to supervision logs mentioned earlier.

In §343.400 (concerning Intake and Admission), the term *mental health professional* will be replaced by *mental health provider*.

In §343.404 (concerning Mental Health Screening and Referral), the term *mental health professional* will be replaced by *mental health provider*. The term *mental health paraprofessional* will also be deleted.

In §343.446 (concerning Exceptions to General Levels of Supervision), the term *mental health professional* will be replaced by *mental health provider*. The term *mental health paraprofessional* will also be deleted.

In §343.600 (concerning Required Pre-Admission Records), the amendment will remove text indicating that the term *behavioral health assessment* is defined in the Compliance Resource Manual. This term is defined in §343.100.

In §343.602 (concerning Intake and Admission), the term *mental health professional* will be replaced by *mental health provider*.

In §343.638 (concerning Exceptions to General Levels of Supervision), the term *mental health professional* will be replaced by *mental health provider*. The term *mental health paraprofessional* will also be deleted.

In §343.812 (concerning Non-Ambulatory Mechanical Restraints), the term *mental health professional* will be replaced by *mental health provider*.

Other Revisions

The amended §343.212 (concerning Duties of Facility Administrator) will limit the requirement to provide quarterly reports to the juvenile board to apply only to private pre- or post-adjudication facilities operated under contract with a governmental entity. This change is in addition to the change relating to annual reviews and inspections mentioned earlier.

The amended §343.604 (concerning Health Screening and Assessment) will no longer require a health screening for all intra-jurisdictional custodial transfers from a pre-adjudication facility to a post-adjudication facility. The revised rule will require this screening only if the post-adjudication facility that receives the juvenile is not located within the same premises as the pre-adjudication facility.

Fiscal Note

Bill Monroe, Senior Director of Finance and Technology, has determined that for the first five-year period the sections are in effect, there will be no significant fiscal impact for state or local government as a result of enforcing or administering the sections.

Public Benefits/Costs

James Williams, Senior Director of Probation and Community Services, has determined that for each of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be clearer rules that are more consistent with terminology used by practitioners in the mental health field. Additionally, the amended rules will allow for operational efficiencies in juvenile probation departments.

There will be no effect on small businesses or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. No private real property rights are affected by adoption of these sections.

Public Comments

Comments on the proposal may be submitted within 30 days after publication of this notice to Steve Roman, Policy Coordinator, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas 78711 or by email to policy.proposals@tjjd.texas.gov.

SUBCHAPTER A. DEFINITIONS AND APPLICABILITY

37 TAC §343.100

Statutory Authority

The amended section is proposed under Human Resources Code §221.002, which authorizes the Texas Juvenile Justice Department to establish reasonable rules that provide minimum standards for juvenile pre-adjudication secure detention facilities and juvenile post-adjudication secure correctional facilities.

No other statute, code, or article is affected by this proposal.

§343.100. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless otherwise expressly defined within the chapter.

(1) Behavioral Health Assessment--A mental health assessment conducted by a masters-level mental health provider who is licensed by one of the boards listed in paragraph (29) of this section and qualified by training to conduct all required elements of a behavioral health assessment. At a minimum, a behavioral health

assessment must include the following elements: [A mental health assessment conducted by a Masters-level mental health professional with Texas State licensure (i.e., LPC, LMFT and LCSW) or a mental health paraprofessional that includes information from testing; review of background information and clinical interview(s). See the Commission's commentary of §343.600 of this chapter for a complete listing of the specific elements required to be addressed in this assessment.]

(A) Clinical interview;

(B) Psycho-social evaluation, to include:

(i) family history;

(ii) community/living environment;

(iii) peer relationships; and

(iv) academic/vocational history;

(C) Review of the following files and associated records in the possession of the juvenile probation department:

(i) juvenile probation records;

(ii) mental health records;

(iii) medical records;

(iv) previous mental health testing records; and

(v) educational records;

(D) Parent/guardian interview, unless the parent/guardian is unwilling to participate, and any other collateral interviews the mental health provider deems appropriate, such as a teacher or the child's juvenile probation officer;

(E) Psychometric testing, to include:

(i) Achievement assessment, only if there is no record of an achievement assessment within the last three years;

(ii) Personality assessment, only if there is no record of a personality assessment within the last three years;

(iii) Intellectual assessment, only if:

(I) there is no record of an intellectual assessment within the last three years; or

(II) a new intellectual assessment is indicated by:
(-a-) pervasive use of drugs known to impair thought processes;

(-b-) traumatic brain injury;

(-c-) the child was age 12 or younger on the date of the most recent psychometric testing; or

(-d-) obvious impairment in cognitive or interpersonal functioning; and

(F) Review of risks, strengths, and recommendations for intervention.

(2) Chief Administrative Officer--Regardless of title, the person hired by a juvenile board who is responsible for oversight of the day-to-day operations of a juvenile probation department for a single county or a multi-county judicial district.

(3) Commission--The Texas Juvenile Justice Department (successor agency to the Texas Juvenile Probation Commission) [TJJC].

(4) Common Activity Area--Area inside the facility to which residents have access and in which activities are conducted. This area includes, but is not limited to dayrooms, covered recreation

areas, recreation rooms, education rooms, counseling rooms, testing rooms, visitation areas, and medical or dental rooms.

(5) **Contraband**--Any item not issued to employees for the performance of their duties and which employees have not obtained supervisory approval to possess. Contraband also includes any item given to a resident by an employee or other individual, which a resident is not authorized to possess or use. Specific items of contraband include, but are not limited to:

- (A) firearms;
- (B) knives;
- (C) ammunition;
- (D) drugs;
- (E) intoxicants;
- (F) pornography; and

(G) any unauthorized written or verbal communication brought into or taken from an institution for a resident, former resident, associate of or family members of a resident.

(6) **Date and Time of Admission**--The date and time a juvenile has been authorized for detention in a secure pre-adjudication detention facility by an individual who is authorized by the juvenile board in accordance with §53.02 of the Texas Family Code. If the decision to detain was made prior to the juvenile's arrival to the facility, the date and time of admission shall be the same as the date and time of entry.

(7) **Date and Time of Entry**--The date and time a juvenile has been presented by law enforcement or a county juvenile probation officer to a pre-adjudication secure detention facility for processing and authorization of detention.

(8) **Design Capacity**--The number of people that can safely occupy a building or space as determined by the current architectural design and any building modifications, licensing, accreditation, regulatory authorities, and applicable building codes.

(9) **Designee**--The person authorized to perform a specific duty as assigned by the facility administrator.

(10) **Detention**--The temporary secure custody of a child as defined in and authorized by Title 3 of the Texas Family Code.

(11) **Disciplinary Seclusion**--The separation of a resident from other residents for disciplinary reasons, and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(12) **Facility Administrator**--The individual designated by the chief administrative officer or governing board of the facility who has the ultimate responsibility for managing and operating the facility. This definition includes the certified juvenile supervision officer who is designated in writing as the acting facility administrator during the absence of the facility administrator.

(13) **Furlough**--A period of time during which a resident is allowed to leave the facility premises and go into the community unsupervised for various purposes consistent with public interest.

(14) **Hazardous Material**--Any substance which is explosive, flammable, combustible, poisonous, corrosive, irritating or otherwise harmful and is likely to cause injury or death.

(15) **Health Administrator**--A person, who by virtue of education, experience or certification, is capable of assuming responsi-

bility for arranging all levels of health care and ensuring quality and accessible health services for juveniles.

(16) **Health Assessment**--The process whereby the health status of an individual is evaluated, which may include questioning the patient regarding symptoms.

(17) **Health Care Professional**--A term that includes physicians, physician assistants, nurses, nurse practitioners, dentists, medical and nursing care assistants, emergency medical technicians (EMT), and others who, by virtue of their education, credentials and experience, are permitted by law to evaluate and care for patients.

(18) **Health Service Authority**--The agency, organization, entity or individual responsible for consulting and collaborating with the facility administrator and/or the health services coordinator to ensure a coordinated and adequate health care system is available to residents of the facility.

(19) **Housing Area**--An area within a secure juvenile facility that contains any single occupancy housing unit or units (SOHU) and/or multiple occupancy housing unit or units (MOHU).

(20) **Housing Unit**--A unit within the housing area that may be designed and constructed as either a single occupancy housing unit (SOHU) or a multiple occupancy housing unit (MOHU).

(21) **Individual Resident Sleeping Quarter**--A cell or room designed and constructed to securely house one resident.

(22) **Intra-Jurisdictional Custodial Transfer**--The transfer of a resident from a pre-adjudication secure detention facility into a post-adjudication secure correctional facility under the same administrative authority.

(23) **Isolation**--The separation of a resident from other residents and the placement of the resident alone in an area from which egress is prevented for assessment, medical, or protective purposes.

(24) **Juvenile**--A person who is under the jurisdiction of the juvenile court, confined in a juvenile justice facility, or participating in a juvenile justice program administered or operated under the authority of the juvenile board.

(25) **Juvenile Supervision Officer**--A person whose primary responsibility and essential function is the supervision of juveniles in a juvenile justice facility or a juvenile justice program operated by or under contract with the juvenile board.

(26) **Material Safety Data Sheet (MSDS)**--A document prepared by the supplier or manufacturer of a product clearly stating its hazardous nature, ingredients, precautions to follow, health effects and safe handling/storage information.

(27) **Medical Entity**--An agency or organization that is primarily composed of health care professionals.

(28) **Medical Treatment**--Medical care, including diagnostic testing (e.g., x-rays, laboratory testing, etc.), performed or ordered by a physician, physician assistant or performed by a licensed nurse practitioner, emergency medical technician (EMT), paramedic or licensed vocational nurse (LVN) according to their respective licensure.

[(29) **Mental Health Paraprofessional**--An individual who is able to perform tasks requiring significant knowledge, but without having the license or certification to perform at a professional level, including students, interns, fellows, post-doctorates, or other approved students in an official training program in psychology or a related field under the supervision of an authorized mental health professional.]

(29) [(30)] **Mental Health Provider [Professional]**--An individual who [has met the educational requirements and] is licensed

or otherwise authorized to provide mental health services [certified] by one or more of the following licensing boards: [governmental entities:]

(A) [the] Texas State Board of Examiners of Psychologists;

(B) [the] Texas State Board of Examiners of Professional Counselors;

(C) [the] Texas State Board of Examiners of Marriage and Family Therapists;

(D) [the] Texas Department of State Health Services;

(E) [the] Texas Medical Board; or

(F) [the] Texas State Board of Social Worker Examiners, [provided that the licensure is Licensed Clinical Social Work; or]

[(G) the Texas State Board of Social Worker Examiners provided that the licensure is Licensed Master Social Work accompanied with written recognition by the board for independent practice.]

(30) [(31)] Mental Health Screening--A process that includes a series of questions that are designed to identify a resident who is at an increased risk of having mental health disorders that warrant attention and a professional review.

(31) [(32)] Military-Style Program--A program or component in a post-adjudication secure correctional facility for juvenile offenders that features military-style discipline and structure as an integral part of its treatment and rehabilitation program.

(32) [(33)] Multiple Occupancy Housing Unit (MOHU)--A housing unit designed and constructed for multiple occupancy sleeping which is self-contained and includes appropriate sleeping, sanitation, and hygiene equipment or fixtures.

(33) [(34)] Non-Program Hours--Time period when all scheduled resident activity for the entire resident population in the facility has ceased for the day.

(34) [(35)] Physical Training Program--Any program that requires participants to engage in and perform structured physical training and activity. This does not include recreational team activities or activities related to the educational curriculum (i.e., physical education).

(35) [(36)] Positive Screening--A scored result of a completed mental health screening instrument (i.e., MAYSI-2) recommending services requiring a primary service by a mental health provider [professional] as described on the MAYSI-2 reference card.

(36) [(37)] Post-Adjudication Secure Correctional Facility ("Facility" or "Secure Facility")--A secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of the residents and is intended for the treatment and rehabilitation of youth who have been adjudicated. Subchapters A, B, D and E of this chapter apply to all post-adjudication secure correctional facilities. A post-adjudication secure correctional facility does not include any non-secure residential program operating under the authority of a governing board.

(37) [(38)] Pre-Adjudication Secure Detention Facility ("Facility" or "Secure Facility")--A secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and is used for the temporary placement of any juvenile or other individual who is accused of having committed an offense and is awaiting court action, an administrative hearing, or other transfer action. Subchapters A, B, C and E of this chapter apply to all pre-adjudication secure detention

facilities. A pre-adjudication secure detention facility does not include a short-term detention facility as defined by §51.12(j) of the Texas Family Code.

(38) [(39)] Premises--A building(s) together with its grounds or other appurtenances.

(39) [(40)] Primary Control Room--A restricted or secure area from which entrance into and exit from a secure facility is controlled. The primary control room also contains the emergency, monitoring, and communications systems and is staffed 24 hours each day that residents are in the facility.

(40) [(41)] Professionals--The following persons are considered professionals for limited purposes:

(A) teachers certified as educators by the State Board for Educator Certification including teachers certified by the State Board for Educator Certification with provisional or emergency certifications;

(B) educational aides or paraprofessionals certified by the State Board for Educator Certification;

(C) health care professionals licensed or certified by:

(i) the Texas Board of Nursing;

(ii) the Texas Medical Board;

(iii) the Texas Physician Assistant Board;

(iv) the Texas Department of State Health Services;

or

(v) the Texas State Board of Dental Examiners;

(D) mental health providers [professionals] as defined in paragraph (29) [(30)] of this section;

(E) qualified mental health professional as defined in paragraph (44) of this section;

[(F) mental health paraprofessional as defined in paragraph (29) of this section;]

(F) [(G)] social workers licensed by the Texas Board of Social Worker Examiners;

(G) [(H)] juvenile probation officers certified by the Texas Juvenile Justice Department; [Probation Commission;] and

(H) [(I)] commissioned law enforcement personnel.

(41) [(42)] Protective Isolation--The exclusion of a threatened resident from the group by placing the resident in an individual room that minimizes contact with the residents from a specific group.

(42) [(43)] Program Hours--The time period of no less than ten hours when the resident population has scheduled activities and any shift changes that occur during the time period when the resident population has scheduled activities.

(43) Psychological Evaluation--A mental health assessment completed or supervised by a doctoral-level psychologist who is licensed by the Texas State Board of Examiners of Psychologists. At a minimum, a psychological evaluation must include the following elements:

(A) Clinical interview;

(B) Psycho-social evaluation, to include:

(i) family history;

(ii) community/living environment;

(iii) peer relationships; and

(iv) academic/vocational history;

(C) Review of the following files and associated records in the possession of the juvenile probation department:

(i) juvenile probation records;

(ii) mental health records;

(iii) medical records;

(iv) previous mental health testing records; and

(v) educational records;

(D) Parent/guardian interview, unless the parent/guardian is unwilling to participate, and any other collateral interviews the psychologist deems appropriate, such as a teacher or the child's juvenile probation officer;

(E) Psychometric testing, only if there is no record of psychometric testing within the past three years. Psychometric testing must include:

(i) Achievement assessment;

(ii) Personality assessment; and

(iii) Intellectual assessment; and

(F) Review of risks, strengths, and recommendations for intervention.

(44) **Qualified Mental Health Professional**--An individual employed by the local mental health authority or an entity who contracts as a service provider with the local mental health authority who meets the guidelines of the Texas Department of State Health Services.

(45) **Rated Capacity**--The maximum number of beds available in a facility that were architecturally designed as a housing unit.

(46) **Resident**--A juvenile or other individual that has been lawfully admitted into a juvenile pre-adjudication secure detention facility or a post-adjudication secure correctional facility.

(47) **Room Restriction**--The separation of a resident from other residents for behavior modification, and the placement of the resident alone in an area from which egress is prevented for 90 minutes or less.

(48) **Secondary Screening**--A triage process that is brief and designed to clarify if a resident is in need of intervention or a more comprehensive assessment and what type of intervention or assessment is needed.

(49) **Serious Mental Illness**--A professional diagnosis of the following disorders: psychoses, schizophrenia, bipolar with psychotic features, depression with psychotic features, severe post-traumatic stress disorder, and schizoaffective disorders.

(50) **Single Occupancy Housing Unit (SOHU)**--A housing unit designed and constructed with separate and secure individual resident sleeping quarters and includes appropriate sleeping, sanitation, and hygiene equipment or fixtures.

(51) **Standard Screening Instrument**--An instrument approved by the TJJJD [Commission] that screens the juvenile's needs in the area of mental health.

(52) TJJJD--The Texas Juvenile Justice Department.

(53) [(52)] Volunteer--Individuals agreeing to perform services without compensation[;] who have regular or periodic supervised

contact or unsupervised contact with juveniles under the direction of the pre-adjudication and post-adjudication secure juvenile facility.

(54) [(53)] **Youth-on-Youth Sexual Conduct**--Two or more juveniles, regardless of age, who engage in deviate sexual intercourse, sexual contact, sexual intercourse, or sexual performance as those terms are defined in subparagraphs (A) - (D) of this paragraph:

(A) "Deviate sexual intercourse" means:

(i) any contact between any part of the genitals of one person and the mouth or anus of another person; or

(ii) the penetration of the genitals or the anus of another person with an object.

(B) "Sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(i) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a person; or

(ii) any touching of any part of the body of a person, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(C) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(D) "Sexual performance" means acts of a sexual or suggestive nature performed in front of one or more persons, including simulated or actual sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(E) A juvenile may not consent to the acts as defined in this paragraph under any circumstances. Consent may not be implied regardless of the age of the juvenile.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301237

Brett Bray

General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 424-6014



SUBCHAPTER B. PRE-ADJUDICATION AND POST-ADJUDICATION SECURE FACILITY STANDARDS

37 TAC §§343.212, 343.224, 343.240, 343.288, 343.302, 343.332, 343.340, 343.342, 343.346, 343.348, 343.350

The amended sections are proposed under Human Resources Code §221.002, which authorizes the Texas Juvenile Justice Department to establish reasonable rules that provide minimum standards for juvenile pre-adjudication secure detention facilities and juvenile post-adjudication secure correctional facilities.

No other statute, code, or article is affected by this proposal.

§343.212. *Duties of Facility Administrator.*

(a) The facility administrator shall be responsible for the daily operations of the facility and shall maintain an office at the facility.

(b) The facility administrator shall designate a certified juvenile supervision officer to be in charge during his or her absence from the facility.

(c) The facility administrator shall develop, implement and maintain a policies and procedures manual for the facility and shall ensure the daily facility practice conforms to the policies and procedures detailed in the manual.

(d) The facility administrator shall review the facility's policies and procedures manual at least once each year, no later than the last day of the calendar month of the previous year's review, [every 365 calendar days] and maintain documentation of this review.

(e) The facility administrator shall make available the policies and procedures manual to all employees of the facility.

(f) The facility administrator shall ensure that all employees of the facility are:

(1) trained on the policies and procedures manual provisions relevant to the employee's job functions during new employee orientation or prior to beginning service at the facility and maintain documentation of that training; and

(2) notified of or given access to, [provided or made available], in a written or electronic format, all changes or modifications to the policies and procedures manual in a timely manner.

(g) The facility administrator or designee shall ensure that current, accurate and confidential personnel records are maintained for each employee which shall include:

- (1) proof of age;
- (2) documentation of criminal background checks conducted as required by this title;
- (3) the completed application for employment;
- (4) training records; and
- (5) documentation of promotion, demotion, termination and other personnel actions.

(h) The facility administrator or chief administrative officer of a private entity under contract with a governmental unit in this state shall provide the presiding officer of the juvenile board [or governing board] of the county in which the facility is located with periodic updates on the operation of the facility, including the following information to be provided at least every quarter:

- (1) facility population/capacity reports;
- (2) number of serious incidents by category that occurred in the facility;
- (3) number of resident restraints by type (e.g., personal, mechanical and chemical);
- (4) number of injuries to residents requiring medical treatment; and
- (5) number of injuries to staff requiring medical treatment.

(i) The facility administrator or chief administrative officer shall ensure the accurate and timely submission of statistical data to the TJJD [Commission] in an electronic format or other format as requested by the TJJD. [Commission.]

(j) The facility administrator or chief administrative officer shall ensure that all individuals employed by the facility who have unsupervised contact with residents are subjected to all required criminal history background checks as required by Chapter 344 of this title.

§343.224. *Alternate Power Source.*

(a) The facility shall have an alternate source(s) of electrical power that provides for the simultaneous operation [operations] of life safety systems including:

- (1) emergency lighting;
- (2) illuminated emergency exit lights and signs;
- (3) emergency audible communication systems and equipment;
- (4) fire detection and alarm systems;
- (5) ventilation and smoke management systems; and
- (6) all secure door locking mechanisms which operate exclusively on electric current.

(b) The alternate power source system shall be tested at least once every 15 calendar days to ensure the system is in working condition.

(c) The alternate power source system (e.g., the alternate power source and the life safety systems required to be operated) shall be inspected at least once each year, no later than the last day of the calendar month of the previous year's inspection. [every 365 calendar days.] This inspection must be completed by a person with qualifications established through work experience, relevant training, specialized licensure or certification.

(d) Each test of the alternate power source system [All of the aforementioned tests] shall be documented and include, at a minimum, the [to minimally include] test date and test results.

(e) Any system malfunctions or maintenance needs that are identified during a test^[s] or at any other time^[s] shall require that a written maintenance request be immediately submitted to the appropriate personnel.

§343.240. *Safety Codes.*

(a) The facility shall conform to the provisions set forth in the Life Safety Code (i.e., National Fire Protection Association (NFPA) 101) and/or any applicable state and local fire safety codes. The Life Safety Code may be substituted with local government ordinances or codes only if the local [said] ordinances or codes are specifically written to include building occupancy for detention and correctional usage.

(b) A formalized Life Safety Code/fire safety inspection shall be completed prior to the facility becoming operational.

(c) All subsequent Life Safety Code/fire safety inspections shall be conducted no later than the last day of the calendar month of the [365 calendar days from the date of] previous year's inspection.

(d) Each Life Safety Code/fire safety inspection shall result in a written report that [minimally] contains at least the following information:

(1) the identification of the specific code(s) used to complete the inspection. The code(s) used must [in question will either] be the [NFPAs] Life Safety Code [101] or the applicable state, municipal, or county specific fire code adopted by the jurisdiction;

(2) the name of the governmental entity that conducted the inspection;

(3) the identification of any applicable code violations or infractions and the corresponding corrective action requirements;

(4) the name and title of the person conducting the inspection; and

(5) the date(s) of the inspection.

(e) Any deficiencies noted in the annual inspection report shall be immediately addressed by the facility administrator or designee. The facility administrator shall develop and document a corrective action plan to rectify all deficiencies.

§343.288. *Disciplinary Seclusion.*

(a) Disciplinary seclusion may be used when a resident commits a major rule violation or poses an imminent physical threat to self or others.

(b) A written disciplinary report which describes the resident's precipitating behavior and identifies the staff's response shall be completed promptly, but no later than the end of the shift on which the seclusion occurs. The report shall be submitted immediately to the facility administrator for review.

(c) Seclusion in excess of 24 hours shall be approved in writing by the facility administrator. The written approval of the facility administrator shall also be required for each subsequent 24-hour extension.

(d) The seclusion of a resident with a known diagnosis of a serious mental illness requires consultation with a mental health provider [professional] prior to the authorization of any seclusion beyond a 24-hour period. If the seclusion occurs on a holiday or weekend and no mental health provider [professional] is available, the facility administrator or designee shall make a referral to a mental health provider [professional] and notify the mental health provider [professional] of the seclusion. The facility administrator shall consult with the mental health provider [professional] as soon as possible after the referral.

(e) During disciplinary seclusion, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed 15 minutes.

(f) In addition to the requirements enumerated in subsections (a) - (c) and (e) of this section, the facility shall provide the secluded resident the disciplinary review mechanisms contained in §343.278 of this chapter.

§343.302. *Menu Plans.*

(a) The facility shall develop and follow daily written menu plans. Menu plans shall be reviewed and approved at least once each year, no later than the last day of the calendar month of the previous year's approval. The review and approval shall be conducted [every 365 calendar days] by a licensed or provisionally licensed dietician to ensure that the menu plans meet or exceed the requirements of the United States Department of Agriculture (USDA).

(b) If a facility staff determines that there is a legitimate need to deviate from a previously [an already] approved written menu plan (e.g., delayed food delivery, spoiled/expired food, etc.), the reason for the deviation and menu substitution shall be fully documented. When menu substitutions are made, the substitution shall be of equal portions and equal nutritional value.

§343.332. *Behavioral Health Care Services for Sexual Abuse Victims.*

A mental health provider [professional] shall assess any resident who, at the conclusion of an internal investigation or TJJD [Commission]

investigation of abuse, neglect or exploitation that occurred in the facility, is found to have been the victim of a sexual assault. The mental health provider [professional] shall assess the need for crisis intervention counseling and any subsequent long-term, follow-up or counseling services. The cost of the assessment and any subsequent counseling services shall not be assessed to the resident or the resident's family.

§343.340. *Suicide Prevention Plan.*

(a) Plan. The facility shall have a written suicide prevention plan developed in consultation with a mental health provider [professional] that, at a minimum, addresses the following components:

(1) definitions of moderate and high risk for suicidal behavior;

(2) a screening methodology to assess and assign a resident's risk of suicide upon admission into the facility, and upon any indication a resident previously screened may now be at moderate or high risk for suicidal behavior. The screening methodology shall include specific provisions regarding the assessment of risk when a resident refuses or is unable to cooperate with the screening process;

(3) communication protocols among facility staff, mental health providers, [professionals,] the resident's juvenile probation officer, the resident, and the resident's parent, legal guardian, or custodian, including communication regarding observations or indications a resident previously screened may now be at moderate or high risk for suicidal behavior;

(4) level of supervision for residents assigned to moderate or high risk for suicidal behavior;

(5) policies and procedures for intervening in suicide attempts;

(6) reporting of resident suicides and attempted suicides, in accordance with any applicable state law, administrative standard, or local policy or ordinance;

(7) staff training on the contents and implementation of the suicide prevention plan;

(8) housing of residents assigned to moderate or high risk for suicidal behavior, including the removal from the resident's presence any dangerous objects which may include clothing and bedding items; and

(9) mortality reviews designed to review the facility's compliance and possible needed revisions to the suicide prevention plan following a resident's suicide.

(b) Implementation. The facility shall implement the suicide prevention plan, and all residents shall be screened and assessed for suicide risk upon admission and as necessary thereafter.

§343.342. *Review and Dissemination of Suicide Prevention Plan.*

(a) The suicide prevention plan shall be reviewed [every 365 calendar days] in consultation with a mental health provider at least once each year, no later than the last day of the calendar month of the previous year's review. [professional.]

(b) The suicide prevention plan shall be disseminated or made available to all facility staff having responsibilities named or enumerated in the facility's suicide prevention plan.

§343.346. *Mental Health Referral of High Risk Suicidal Youth.*

(a) The facility shall refer a resident classified as high risk for suicidal behavior to a mental health provider [professional] or mental health agency within 24 hours from the time the resident is classified as such.

(b) The facility shall maintain written documentation that the referral was made. The documentation shall include:

- (1) the name and title of the person who notified the mental health provider, [professional];
- (2) the name and title of the mental health provider [professional] or name of the mental health agency notified;
- (3) the date and time of the notification;
- (4) the method of notification; and
- (5) a brief description of the response provided by the mental health provider [professional] or a responsive document from the mental health provider [professional].

§343.348. *Supervision of High Risk Suicidal Youth.*

(a) Observation. During non-program hours[,] or any time a resident classified as high risk for suicidal behavior is secluded from the general population:

- (1) the resident shall be under the continuous, uninterrupted visual supervision of a juvenile supervision officer; and
- (2) the supervising juvenile supervision officer shall document his or her personal observations of a high-risk resident at intervals not to exceed 30 minutes.

(b) Required Documentation. The following documentation shall be maintained for high-risk residents:

- (1) the date and time the resident was classified as high risk for suicidal behavior;
- (2) name and title of the person who classified the resident as high risk for suicidal behavior;
- (3) a description of the resident's behavior and/or factors that led up to the resident's classification as high risk for suicidal behavior;
- (4) name [and title] of the juvenile supervision officer providing supervision of the resident;
- (5) the location of the resident's supervision;
- (6) the date and time the resident was reclassified as no longer being high risk for suicidal behavior; and
- (7) the name and title of the mental health provider [professional] or physician who recommended the reclassification of the resident as no longer being high risk for suicidal behavior.

(c) Reclassification. Reclassification of a resident designated as high risk for suicidal behavior to a lower risk level shall only be determined by the facility administrator with the recommendation of a qualified mental health professional, [a mental health ~~paraprofessional~~] a mental health provider, [professional] or a licensed physician.

(1) Prior to recommending reclassification, a qualified mental health professional, [mental health ~~paraprofessional~~] mental health provider, [professional] or a licensed physician shall conduct a review of the resident's current suicide risk and issue a written recommendation which addresses the following:

- (A) the need to re-classify the resident's suicide risk level;
- (B) the need for intervention strategies and/or services during the resident's period of confinement within the facility; and
- (C) the need for additional assessment(s), screening(s) or evaluation(s).

(2) The written recommendation of the qualified mental health professional, [mental health ~~paraprofessional~~] mental health provider, [professional] or licensed physician shall be maintained in the resident's record.

(3) The facility administrator or designee shall review the written recommendation of the qualified mental health professional, [mental health ~~paraprofessional~~] mental health provider, [professional] or licensed physician prior to reclassifying a resident as no longer at high risk for suicidal behavior.

(4) Only the facility administrator or designee shall authorize the reclassification of a resident classified as high risk for suicidal behavior under this subsection.

§343.350. *Supervision of Moderate Risk Suicidal Youth.*

(a) Observation. Any time a resident is classified as a moderate risk for suicidal behavior and is in individual sleeping quarters, a juvenile supervision officer shall personally observe and record the resident's behavior at random intervals not to exceed ten minutes.

(b) Required Documentation. When providing supervision at random intervals, the juvenile supervision officer shall document:

- (1) the date and time the resident was classified as moderate risk for suicidal behavior;
- (2) the location of the resident's supervision;
- (3) the name [and title] of the juvenile supervision officer providing supervision of the resident;
- (4) each visual observation made and the time of the observation; and
- (5) a general description of the resident's behavior.

(c) Reclassification. Only the facility administrator or designee shall authorize the reclassification of a resident classified as moderate risk for suicidal behavior under this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER C. SECURE PRE-ADJUDICATION DETENTION FACILITY STANDARDS

37 TAC §§343.400, 343.404, 343.446

The amended sections are proposed under Human Resources Code §221.002, which authorizes the Texas Juvenile Justice Department to establish reasonable rules that provide minimum standards for juvenile pre-adjudication secure detention facilities and juvenile post-adjudication secure correctional facilities.

No other statute, code, or article is affected by this proposal.

§343.400. *Intake and Admission.*

(a) Intake. An intake officer authorized by the juvenile board shall be on duty at the facility or ~~on call~~ 24 hours ~~per~~ [a] day.

(b) Pre-Admission Assessment. Each facility shall have written policies and procedures addressing the admission of juveniles who are in need of emergency medical care due to injury, illness, or intoxication or who are in need of emergency mental health services.

(1) Anyone presented for admission into detention ~~who~~ [and] is in need of emergency medical care due to injury, illness, or intoxication, or is in need of mental health intervention~~[s]~~ shall not be admitted into detention.

(2) The referring person shall be directed to a health care facility to have the individual evaluated and treated.

(c) Subsequent admission into detention is contingent upon written medical clearance provided by a health care or mental health ~~provider~~. ~~[professional]~~

(d) Intoxicated or Chemically-Impaired Individuals. Each facility shall have written policies and procedures addressing intoxicated or chemically-impaired juveniles being admitted into detention and their need for specialized supervision.

(e) Intoxicated or chemically-impaired individuals who have been medically cleared for admission should be placed under medical isolation in accordance with §343.338 of this chapter.

(f) A juvenile who has been taken into custody by law enforcement and presented for detention at a secure pre-adjudication detention facility shall:

(1) not be left unsupervised; and

(2) be admitted into detention immediately but no later than six hours from the time of entry.

§343.404. *Mental Health Screening and Referral.*

(a) Mental Health Screening. The standard screening instrument shall be administered to each resident that is admitted into detention within 48 hours.

(b) Positive ~~Screening and Mental Health Referral~~ ~~[screening and mental health referral]~~. A resident who scores a positive screening on the standard screening instrument shall be:

(1) administered a secondary screening immediately to assist in clarifying the resident's need for mental health intervention;

(A) If the secondary screening confirms the positive screening and that mental health intervention is warranted, then a referral shall be made to a mental health ~~provider~~ ~~[professional]~~ or licensed physician within 48 hours.

(B) If the secondary screening substantiates that the initial positive screening was false, then no further mental health intervention is required; or

(2) referred to a qualified mental health professional ~~[or mental health paraprofessional]~~ for consultation by the end of the following workday to determine if further intervention is warranted.

(A) The facility shall maintain documentation of the consultation in the resident's file.

(B) If the qualified mental health professional ~~[or mental health paraprofessional]~~ recommends that further mental health intervention is needed, then the resident must be referred to a mental health ~~provider~~ ~~[professional]~~ or a licensed physician within 48 hours.

(c) Documentation of recommendations or referrals specific to the juvenile's positive screening on the standard screening instrument

shall be forwarded to the supervising juvenile probation officer if the juvenile is released at any point during the proceedings initiated in subsection (b)(1) and (2) of this section. If the juvenile is released and no further juvenile justice intervention is required, then the documentation shall be forwarded to the juvenile's parent, legal guardian, or custodian.

(d) Documentation of referrals, completed assessments and evaluations, including dates and times, shall be retained in the juvenile's file and forwarded to the supervising juvenile probation officer.

§343.446. *Exceptions to General Levels of Supervision.*

A resident shall be in the constant physical presence of a juvenile supervision officer with the exception of the following:

(1) Small Groups. No more than three residents may be supervised by a professional when the professional is working with the residents in a capacity that relates to the professional's licensure, certification, professional training, or education.

(2) Small Therapeutic Groups. A juvenile supervision officer shall provide constant visual supervision of any small group between four and eight residents when those residents are working with a qualified mental health professional~~;~~ a mental health paraprofessional~~;~~ or [a] mental health ~~provider~~. ~~[professional as defined in §343.100(30) of this chapter.]~~

(3) Visitation. Private visitation between one resident and an attorney, authorized visitor, or clergy does not require the constant physical presence of a juvenile supervision officer.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER D. SECURE POST-ADJUDICATION CORRECTIONAL FACILITY STANDARDS

37 TAC §§343.600, 343.602, 343.604, 343.638

The amended sections are proposed under Human Resources Code §221.002, which authorizes the Texas Juvenile Justice Department to establish reasonable rules that provide minimum standards for juvenile pre-adjudication secure detention facilities and juvenile post-adjudication secure correctional facilities.

No other statute, code, or article is affected by this proposal.

§343.600. *Required Pre-Admission Records.*

Prior to a resident's admission, the facility shall receive the following from the referring agency:

(1) except when the facility is operated by the referring agency, a detailed summary of the juvenile's history on the designated form provided by TJJD ~~[the Commission]~~ that includes, but is not limited to the following:

(A) the juvenile's demographic information;

- (B) the referring agency's impression of the juvenile;
 - (C) a description of the juvenile's strengths;
 - (D) the juvenile's special needs, problems, and behaviors;
 - (E) the juvenile's juvenile justice history;
 - (F) the juvenile's placement history;
 - (G) the juvenile's substance abuse history;
 - (H) the juvenile's history of abuse and neglect;
 - (I) family or parental involvement with the juvenile and history;
 - (J) the juvenile's educational history;
 - (K) a description of the juvenile's physical health and disabilities;
 - (L) a description of the juvenile's mental health;
 - (M) the referring agency's recommendation on the level of care;
 - (N) a copy of the juvenile's birth certificate; and
 - (O) other pertinent information;
- (2) a psychological evaluation^[,] or behavioral health assessment ~~[(as defined in the CRM),]~~ completed within 365 calendar days prior to the resident's admission date;
 - (3) a signed disposition order or TJJD ~~[TJC]~~ commitment order;
 - (4) a current immunization record;
 - (5) a medical examination that was completed within 30 calendar days prior to the resident's admission date;
 - (6) documentation that a tuberculosis test was administered and results were received no more than 365 calendar days prior to the resident's admission date;
 - (7) a dental evaluation that was completed within 30 calendar days prior to the resident's admission date;
 - (8) services needed for the disabled;
 - (9) primary language of the resident and the resident's parent, legal guardian, or custodian; and
 - (10) school records.

§343.602. Intake and Admission.

(a) Pre-Admission Assessment. Each facility shall have written policies and procedures addressing the admission of juveniles who are in need of emergency medical care due to injury, illness, or intoxication or who are in need of mental health services.

(1) Anyone presented for admission into the facility who ~~and~~ is in need of emergency medical care due to injury, illness, or intoxication or is in need of mental health intervention shall not be admitted into the facility.

(2) The referring person shall be directed to a health care facility to have the individual evaluated and treated.

(3) Subsequent admission into the facility is contingent upon written medical clearance provided by a health care professional or mental health provider. ~~[professional.]~~

(b) Intoxicated or Chemically-Impaired Individuals. Each facility shall have written policies and procedures addressing intoxicated

or chemically-impaired juveniles being admitted into the facility and their need for specialized supervision.

(c) Intoxicated or chemically-impaired individuals who have been medically cleared for admission should be placed under medical isolation in accordance with §343.338 of this chapter.

§343.604. Health Screening and Assessment.

(a) Health Screening. Except as provided in subsection (e) of this section, a ~~[A]~~ health screening shall be conducted on each resident within two hours after ~~[of]~~ admission by either a health care professional or an individual who has received specific training on administering the facility's health screening. The health screening instrument shall include:

- (1) mental health problems;
- (2) suicide risk in accordance with the facility's suicide prevention plan;
- (3) current state of health including:
 - (A) allergies;
 - (B) tuberculosis;
 - (C) other chronic conditions;
 - (D) sexually transmitted diseases;
 - (E) other infectious diseases; and
 - (F) history of gynecological problems or pregnancies;
- (4) current use of medication including type, dosage, and prescribing physician;
- (5) visual observation of teeth and gums and notation of any obvious dental problems;
- (6) vision problems;
- (7) drug and alcohol use;
- (8) physical and developmental disabilities;
- (9) evidence of physical trauma; and
- (10) a determination of the need for medical detoxification from alcohol or other substances or mental health intervention.

(b) Referral for Assessment. If the health screening indicates that a resident is in need of further medical evaluation, the resident shall be referred to a health care professional for further assessment within 24 hours, excluding holidays and weekends, from the date and time of the completed screening.

(c) Results of Screening and Assessment. The results of the health screening and health assessment shall be communicated to appropriate staff.

(d) Contagious or Infectious Disease. Any finding of the health screening that indicates a significant potential health risk to the staff or residents from a contagious or infectious disease shall be reported immediately to the facility administrator, and the affected resident shall be placed in medical isolation until proper medical clearance is obtained.

(e) Intra-Jurisdictional Custodial Transfer. A health screening is not required for [Før] intra-jurisdictional custodial transfer of residents if the post-adjudication facility receiving the resident is located within the same premises as the pre-adjudication facility. If the two facilities are not located within the same premises, the only items required for the health screening [at admission into a post-adjudication

secure correctional facility] are items enumerated in subsection (a)(2) and (9) of this section.

§343.638. Exceptions to General Levels of Supervision.

A resident shall be in the constant physical presence of a juvenile supervision officer with exception of the following:

(1) Small Groups. No more than three residents may be supervised by a professional when the professional is working with the residents in a capacity that relates to the professional's licensure, certification, professional training, or education.

(2) Small Therapeutic Groups. A juvenile supervision officer shall provide constant visual supervision of any small group between four and eight residents when those residents are working with a qualified mental health professional[, a mental health paraprofessional,] or [a] mental health provider. [professional as defined by §343.100(30) of this chapter.]

(3) Visitation. Private visitation between one resident and an attorney, authorized visitor, or clergy does not require the constant physical presence of a juvenile supervision officer.

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SUBCHAPTER E. RESTRAINTS

37 TAC §343.810, §343.812

The amended sections are proposed under Human Resources Code §221.002, which authorizes the Texas Juvenile Justice Department to establish reasonable rules that provide minimum standards for juvenile pre-adjudication secure detention facilities and juvenile post-adjudication secure correctional facilities.

No other statute, code, or article is affected by this proposal.

§343.810. Mechanical Restraint.

(a) Requirements.

(1) Only [the] approved mechanical restraint devices shall be used by a facility.

(2) Mechanical restraint devices shall only be used in a manner consistent with their intended use.

(3) All mechanical restraint devices shall be inspected at least once each year, no later than the last day of the calendar month of the previous year's inspection. All [every 365 calendar days, with all] faulty or malfunctioning devices shall be restricted from use until they are repaired or replaced.

(b) Prohibitions.

(1) Approved mechanical restraint devices shall not be altered from the manufacturer's design.

(2) A resident shall not be placed in a prone position while restrained in any mechanical restraint for a period of time longer than necessary to apply the restraint device.

(3) A mechanical restraint shall not secure a resident in a prone, supine, or lateral position with the resident's [his or her] arms and hands behind the resident's back and secured to the resident's legs.

(4) Approved mechanical restraint devices shall not be secured so tightly as to interfere with circulation or so loosely as to cause chafing of the skin.

(5) Approved mechanical restraint devices shall not be secured to a stationary object, except when complete immobilization is required by use of a four-point restraint or a restraint chair.

(6) A resident in an approved mechanical restraint device shall not participate in any physical activity.

(7) Plastic cuffs shall only be used in emergency situations.

§343.812. Non-Ambulatory Mechanical Restraints.

(a) Non-ambulatory mechanical restraints shall only be used in response to a resident's overt behavior specific to self-injury [self injury] and only when other less restrictive interventions, or other forms of physical restraint, have been deemed to be inappropriate or ineffective.

(b) The initial use of non-ambulatory mechanical restraints shall receive incident-specific authorization from the facility administrator or designee. Standing orders authorizing non-ambulatory mechanical restraints are prohibited.

(c) Non-ambulatory mechanical restraints shall be conducted in an area or room which is not visible to other residents but in a location that is readily accessible to health care professionals or specially-trained staff with supervisory responsibilities specific to the oversight of the non-ambulatory mechanical restraints.

(d) Rooms or cells with fixed or static non-ambulatory mechanical restraint fixtures, mechanisms, etc. (e.g. anchoring points or devices), shall not be used to house residents not being restrained in a non-ambulatory mechanical restraint unless they are being provided constant supervision.

(e) Non-ambulatory mechanical restraints shall be restricted to only standards-compliant restraint beds, restraint chairs, and soft restraint devices.

(f) A written recommendation from a health care professional or a mental health provider [professional] is required in order for a non-ambulatory mechanical restraint to continue longer than one hour.

(g) Non-ambulatory mechanical restraints lasting two hours in duration shall be considered a behavioral health crisis and shall result in an immediate referral to a mental health provider [professional] or a mental health facility for assessment and possible treatment.

(h) Under no circumstances shall a non-ambulatory mechanical restraint exceed three hours in duration within a 24-hour [24 hour] period.

(i) Residents in a non-ambulatory mechanical restraint shall be provided:

(1) constant visual supervision by a juvenile supervision officer;

(2) an opportunity for expanded physical motion or movement for [off] not less than five minutes at every 30-minute [30 minute] interval;

(3) an opportunity to drink water every hour;

(4) regularly prescribed medications, unless otherwise ordered by a physician; and

(5) bathroom privileges offered at least every hour.

(j) Requirements [enumerated] in subsection (i)(1) - (5) of this section shall be fully documented and retained in the facility record or resident file.

(k) The following documentation shall be retained in the facility record or resident file:

(1) an assessment of the resident's circulation, positioning, and breathing conducted at least every ten minutes by a specially-trained juvenile supervision officer or a health care professional; and

(2) documented checks, performed by a health care professional[;] or specially-trained staff, of the physical condition of the resident and the placement of the mechanical restraint devices within the first 30 minutes of the restraint and every hour thereafter.

(l) The officer responsible for providing the constant visual supervision of a resident in a non-ambulatory mechanical restraint shall have physical possession of the key or other mechanism for releasing the resident from the restraint.

(m) Any juvenile probation officer or juvenile supervision officer authorized to place a resident in a non-ambulatory mechanical restraint, shall be trained in topics that include, but are not limited to:

(1) monitoring the vital signs and critical circulation points of a resident placed in the non-ambulatory mechanical restraint; and

(2) emergency procedures for the removal of a resident from the non-ambulatory mechanical restraint.

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CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

SUBCHAPTER E. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE

DIVISION 2. DUE PROCESS HEARINGS

37 TAC §380.9561

The Texas Juvenile Justice Department (TJJD) proposes to amend §380.9561, concerning Detention for Youth Pending Level I or II Hearing.

The amended section will reduce the frequency with which the referring staff member must visit a youth while the youth is detained in a community detention facility or a TJJD security unit. For youth in community detention facilities, the referring staff member will visit at least once every ten workdays. For youth

detained in a TJJD security unit, the referring staff member will contact the youth and designated staff at the TJJD facility at least once every three calendar days.

The amended section will also allow TJJD to detain a youth if the youth is a danger to himself/herself or others and all other detention criteria are met. The criterion requiring the youth to have a pending felony allegation will be removed. This change is consistent with detention criteria established in Family Code §54.01.

Bill Monroe, Senior Director of Finance and Technology, has determined that for the first five-year period the section is in effect, there will be no significant fiscal impact for state or local government as a result of enforcing or administering the section.

James Williams, Senior Director of Probation and Community Services, has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be more efficient allocation of staff time and resources at the state and county levels. Another anticipated public benefit is protection of the public by detaining youth who have committed a revocation-eligible offense and are determined to be a danger to others, regardless of whether the alleged violation would constitute a felony.

There will be no effect on small businesses or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of this proposal.

Comments on the proposal may be submitted within 30 days after publication of this notice to Steve Roman, Policy Coordinator, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas 78711 or by email to policy.proposals@tjjd.texas.gov.

The amended section is proposed under Human Resources Code §242.003, which authorizes TJJD to adopt rules appropriate to the proper accomplishment of its functions, and Human Resources Code §243.051, which authorizes TJJD to take into custody and detain a youth who has been released under supervision and broken the conditions of release.

No other statute, code, or article is affected by this proposal.

§380.9561. *Detention for Youth Pending Level I or II Hearing.*

(a) Purpose. The purpose of this rule is to establish:

(1) criteria and procedures for detaining certain youth in a community detention facility (juvenile or adult) or in a Texas Juvenile Justice Department (TJJD) [Youth Commission (TYC)] security unit prior to a Level I or Level II due process hearing; and

(2) the expectations for interaction between TJJD [TYC] staff and community detention staff.

(b) Definitions. Definitions pertaining to this rule are under §380.9550 [§95.50] of this title.

(c) Applicability.

(1) This rule applies to:

(A) youth on parole status; and

(B) youth on institutional status who are assigned to a facility of less than high restriction.

(2) This rule does not apply to youth assigned to high-restriction facilities.

(d) General Provisions.

(1) Youth who are age 17 or ~~[and]~~ younger may be referred to a juvenile community detention facility with the consent of local authorities. Youth who are age 17 or ~~[and]~~ older may be referred to detention in an adult jail facility.

~~[(2) TYC will utilize community detention facilities in a manner consistent with local policies.]~~

(2) ~~[(3)]~~ Youth may not ~~[shall not]~~ be placed in detention for the purpose of punishment.

~~[(3) [(4)]~~ A Level I or Level II due process hearing will be scheduled in accordance with time frames set forth in §380.9551 or §380.9555 of this title, as applicable. ~~[as soon as practical but no later than seven days, excluding weekends and holidays, from the date of the alleged violation unless it was impractical, impossible, or otherwise inappropriate to have held the hearing sooner.]~~

(4) ~~[(5)]~~ Even if TJJD ~~[TYC staff]~~ receives information that additional criminal or delinquent proceedings against the youth are planned, pending, or anticipated by local authorities, TJJD ~~[TYC]~~ may continue to hold the youth in detention and may schedule and hold a Level I or Level II due process hearing.

(5) ~~[(6)]~~ For youth held in community detention, the referring staff or a designated parole officer must ~~[will]~~ visit the youth at least once every ten workdays. ~~[daily when possible. No more than three days may pass without a contact by the staff responsible for the youth.]~~

(6) ~~[(7)]~~ For youth held in institution detention in a TJJD security unit:

(A) the referring staff must ~~[will visit detained youth when possible. No more than three days may pass without the referring staff making telephone]~~ contact ~~[with]~~ the youth and the institutional placement coordinator or designated staff ~~at least once every three calendar days; and~~

(B) all standard security unit requirements and services as set forth in §380.9740 ~~[§97.40]~~ of this title, unless otherwise noted in this rule, must ~~[herein, shall]~~ be observed while the youth is detained in a TJJD ~~[TYC]~~ security unit.

(e) Criteria for Detention. A youth in TJJD ~~[TYC]~~ custody may be detained when:

(1) there are reasonable grounds to believe the youth engaged in:

(A) criminal behavior, delinquent conduct, or a violation of the conditions of release under supervision that meets criteria for revocation as defined in §380.9504 ~~[§95.4]~~ of this title; or

(B) a rule violation that meets criteria for disciplinary transfer as defined in §380.9503 ~~[§95.3]~~ of this title; and

(2) a Level I or Level II due process hearing has been requested; and

(3) one or more of the following criteria are ~~[is]~~ present:

(A) the youth is likely to abscond and not appear at a disciplinary hearing;

(B) suitable supervision, care, or protection for the youth is not being provided by the parent or guardian to ensure protection of the public safety or prevention of youth self-injury and a less restrictive temporary shelter is not available or is inappropriate; or

(C) the youth ~~[is accused of committing a felony offense and]~~ may be dangerous to himself/herself ~~[him/herself]~~ or may threaten the safety of the public or others if released.

(f) Admission to Detention. ~~[Procedure.]~~

(1) Approval for Detention.

(A) If the referring staff determines there are reasonable grounds to believe a youth has committed an offense for which a Level I or Level II due process hearing will be requested, the staff must ~~[will]~~ notify an appropriate supervisor to justify and obtain approval for holding the youth in detention.

(B) If approval for detention is not granted or it is determined that a Level I or Level II hearing ~~[Hearing]~~ will not be sought, arrangements must be ~~[are]~~ made for the immediate release of the youth and return to the appropriate placement, unless the community is detaining the youth for reasons unrelated to TJJD's ~~[TYC's]~~ detention of the youth.

(2) Admission Process for Youth Held in Institution Detention.

(A) The referring staff is responsible for ensuring the following documentation or information is present at the time of admission to institution detention:

(i) a copy of the written request for a Level I or Level II hearing ~~[Hearing]~~;

(ii) a written statement including purpose of admission with supporting documentation (i.e., any incident reports or arrest reports and expected length of stay); and

(iii) the medical file, if available, or copies of pertinent medical records, as well as information relating to any medication the youth is taking.

(B) Based on ~~[The designated admitting staff shall review]~~ the information presented, the admitting staff must ~~[to]~~ determine whether there are reasonable grounds to believe criteria for admission have been met as outlined in subsection (e) of this section. ~~[If the criteria are met, [As a result of this review,]]~~ the youth may be admitted to institution detention for up to 72 hours.

(C) The security dorm supervisor ~~[director of security]~~ or designee (who may not ~~[shall not]~~ serve as the referring or admitting staff) must ~~[will]~~ review all admission decisions within one workday to determine if admission criteria have been met. If criteria are not met or policy or procedures were ~~[are]~~ not followed, the youth must ~~[will]~~ be released and returned to the appropriate placement.

~~[(D)]~~ Upon admission, the youth's case is assigned to the institution placement coordinator or designated staff, who is responsible for seeing the youth at least once each day.]

(g) Detention Review Hearings.

(1) ~~[(3)]~~ Timing of Hearing.

(A) Community Detention.

(i) For ~~[If approval for detention is granted for a]~~ youth placed in community detention, TJJD must hold a Level IV hearing (detention review hearing) ~~[must be held]~~ on or before the tenth workday of detention if:

(I) a detention hearing is not waived or conducted by the community detention staff;

(II) the Level I or II hearing cannot be held within ten workdays; and

(III) further detention is necessary and appropriate.

(ii) If a detention hearing is conducted or waived by community detention staff~~[-]~~ pursuant to the Texas Family Code, TJJD ~~[TYC]~~ staff will participate as requested by the community and complete all required TJJD documentation and/or data entry. ~~[no other action is necessary.]~~

(iii) If a Level IV hearing ~~[Hearing]~~ is not timely held or is not properly waived, the youth must ~~[shall]~~ be released to his/her assigned location or other appropriate non-secure placement.

(B) Institution Detention.

(i) For ~~[If a]~~ youth placed in ~~[is admitted to]~~ institution detention, TJJD must hold a Level IV hearing (detention review hearing) ~~[must be held]~~:

(I) ~~within~~ ~~[on or before]~~ 72 hours after ~~[from]~~ admission to institution detention, or the next workday if the 72nd hour falls on a weekend or holiday; and

(II) within ten workdays after ~~[of]~~ the previous Level IV Hearing.

(ii) If a Level IV hearing ~~[Hearing]~~ is not timely held or is not properly waived, the youth must ~~[shall]~~ be released to his/her assigned location or other appropriate non-secure placement.

(2) ~~[(4)]~~ Decision Maker.

~~[(A) The appropriate supervisor shall appoint a decision-maker.]~~

(A) ~~[(B)]~~ The decision maker must ~~[decision-maker shall]~~ be impartial and may not be ~~[shall not have been]~~ the person who requested or admitted the youth to institution detention or ~~[to]~~ community detention.

(B) ~~[(C)]~~ The decision maker must be knowledgeable of the policies involved in the decision.

(3) ~~[(5)]~~ Youth Representation and Waiver of Level IV Hearing.

(A) The youth has a right and must ~~[shall]~~ be informed of his/her right to be represented at the Level IV hearing:

(i) by counsel, ~~[at the Level IV Hearing]~~ if the youth is awaiting a Level I hearing ~~[Hearing]~~. Counsel is an attorney obtained by the youth or appointed to represent the youth; or

(ii) by an advocate, ~~[at the Level IV Hearing]~~ if the youth is awaiting a Level II hearing ~~[Hearing]~~.

(B) The youth may waive the Level IV hearing after being advised by his/her ~~[an]~~ attorney ~~[(for a Level I Hearing)]~~ or advocate ~~[(for a Level II Hearing)]~~. Such waiver must be in writing.

(C) When a subsequent Level IV hearing ~~[Hearing]~~ is required by policy timelines, the youth must be given the opportunity to have that hearing or to waive it. If the youth chooses to waive the hearing after speaking to his/her ~~[his]~~ attorney or advocate, a new waiver form must be completed.

(4) ~~[(6)]~~ Hearing Process.

(A) The referring staff must show cause to detain the youth pending the hearing. The attorney or advocate may present evidence as to why the youth should not be detained.

(B) The standard of proof for all disputed issues is reasonable grounds to believe.

(C) All credible evidence may be considered, irrespective of its form.

(D) The hearing must ~~[shall]~~ be recorded and the recording is ~~[shall be]~~ the official record of the hearing. Recordings must ~~[shall]~~ be preserved for six months following the hearing.

(E) The decision maker must ~~[shall]~~ base his/her decision on criteria for detention. If criteria are not met, the youth must be released to his/her assigned location.

~~[(F) When a Level IV Hearing is necessary due to the adjournment of a Level I Telephone Hearing under §95.53 of this title, the administrative law judge may conduct a Level IV Hearing following adjournment of the telephone hearing.]~~

(5) ~~[(7)]~~ Appeal.

(A) The youth must be ~~[is]~~ notified in writing of his/her right to appeal.

(i) For youth in institution detention:

(I) appeal of the first Level IV hearing is ~~[Hearing will be]~~ to the facility administrator; ~~[superintendent];~~

(II) appeal of the second Level IV hearing is ~~[Hearing will be]~~ to the executive director under §380.9353 ~~[§93.53]~~ of this title; and

(III) an automatic appeal to the executive director must ~~[will]~~ be filed by the referring staff on the third and any subsequent Level IV hearings ~~[Hearing]~~, even if the youth waives the hearing(s) ~~[hearing]~~. ~~[The referring staff will initiate the automatic appeal.]~~

(ii) For youth in community detention, all Level IV hearing ~~[Hearing]~~ appeals are ~~[will be]~~ to the executive director under §380.9353 ~~[§93.53]~~ of this title.

(B) The pendency of an appeal does ~~[shall]~~ not preclude implementation of the decision to detain the youth. ~~[that a youth be detained.]~~

(h) ~~[(g)]~~ Detention Following ~~[following]~~ Level I or II Hearing. A youth may be held in institution detention without a Level IV hearing ~~[Hearing]~~ when the youth is waiting for transportation to a different placement following a Level I or Level II hearing. Transportation should be arranged immediately to take place within 72 hours. Any delay in transportation beyond 72 hours must be approved by the facility administrator.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301238

Brett Bray

General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: May 5, 2013

For further information, please call: (512) 424-6278

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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 23. EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)

1 TAC §355.8441

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §355.8441, concerning Reimbursement Methodologies for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services. The amended rule is adopted with changes to the proposed text as published in the January 11, 2013, issue of the *Texas Register* (38 TexReg 220) and will be republished.

Background and Justification

The current rule allows for a supplemental payment for fee-for-service dental services provided by publicly owned dental providers, including mobile dental units and clinics. This supplemental payment program was discontinued at the end of February 2012. Beginning March 1, 2012, the majority of Medicaid dental services for children are provided through managed care organizations. The adopted amendment allows eligible dental providers to continue to receive additional federal funding under the Texas Healthcare Transformation and Quality Improvement 1115 Waiver. Eligible dental providers will submit a yearly cost report, and the determination of the Uncompensated Care payment will be based on a cost-to-billed-charges ratio methodology. The funding for the non-federal share of supplemental payments is limited to, and obtained through, intergovernmental transfers of funds from the governmental entity that owns the dental provider.

HHSC revised §355.8441(10)(D) from the proposed version to clarify a reference to "this section" instead of "the section" and revised §355.8441(10)(D)(ii) to clarify that the cost-to-billed-charges ratio used to calculate total allowable costs is defined in the cost report and detailed instructions.

Comments

The 30-day comment period ended February 10, 2013. During this period, HHSC did not receive any comments regarding the proposed amendment to the rule.

Statutory Authority

The amendment is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b), which provides HHSC with the authority to propose and adopt rules governing the determination of Medicaid reimbursements.

§355.8441. *Reimbursement Methodologies for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services.*

The following are reimbursement methodologies for services provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program, delivered to Medicaid clients under age 21, also known as Texas Health Steps (THSteps) and the THSteps Comprehensive Care Program (CCP). Reimbursement methodologies for services provided to all Medicaid clients, including clients under age 21, are located elsewhere in this chapter.

(1) Counseling and psychotherapy services are reimbursed to freestanding psychiatric facilities in accordance with §355.8060 of this subchapter (relating to Reimbursement Methodology for Freestanding Psychiatric Facilities).

(2) Durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) are reimbursed in the same manner as DMEPOS under home health services at §355.8021(b) of this subchapter (relating to Reimbursement Methodology for Home Health Services and Durable Medical Equipment, Prosthetics, Orthotics and Supplies).

(3) Nursing services, including, but not limited to, private duty nursing, registered nurse (RN) services, licensed vocational nurse/licensed practical nurse (LVN/LPN) services, skilled nursing services delegated to qualified aides by RNs in accordance with the licensure standards promulgated by the Texas Board of Nursing, and nursing assessment services, are reimbursed the lesser of the provider's billed charges or fees established by the Texas Health and Human Services Commission (HHSC) for each of the applicable provider types as follows:

(A) Independently enrolled RNs and LVNs/LPNs, under §355.8085 of this subchapter (relating to Texas Medicaid Reimbursement Methodology (TMRM) for Physicians and Certain Other Practitioners); and

(B) Home health agencies (HHAs), under §355.8021(a) of this subchapter.

(4) Physical therapy services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8081 of this subchapter (relating to Payments for Laboratory and X-ray Ser-

vices, Radiation Therapy, Physical Therapists' Services, Physician Services, Podiatry Services, Chiropractic Services, Optometric Services, Ambulance Services, Dentists' Services, Psychologists' Services, Licensed Psychological Associates' Services, Maternity Clinic Services, and Tuberculosis Clinic Services);

(B) HHAs, under §355.8021(a) of this subchapter;

(C) Medicare-certified outpatient facilities known as comprehensive outpatient rehabilitation facilities (CORFs) and outpatient rehabilitation facilities (ORFs), under §355.8085 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter (relating to Payment for Hospital Services).

(5) Occupational therapy services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8081 of this subchapter;

(B) HHAs, under §355.8021(a) of this subchapter;

(C) CORFs and ORFs, under §355.8085 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter.

(6) Speech-language pathology services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8081 of this subchapter;

(B) HHAs, under §355.8021(a) of this subchapter;

(C) CORFs and ORFs, under §355.8085 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter.

(7) Nutritional services provided by licensed dietitians are reimbursed the lesser of the provider's billed charges or fees determined by HHSC in accordance with §355.8085 of this subchapter.

(8) Providers are reimbursed for the administration of immunizations the lesser of the provider's billed charges or fees determined by HHSC in accordance with §355.8085 of this subchapter.

(9) Vaccines not covered elsewhere are reimbursed the lesser of the provider's billed charges or the actual cost of the vaccine.

(10) Dental services are reimbursed in accordance with the following Medicaid reimbursement methodologies:

(A) Dental services provided by enrolled dental providers are reimbursed in accordance with §355.8081 of this subchapter. The fees are calculated as access-based fees under §355.8085 of this subchapter and are based on a percentage of the billed charges (i.e., the usual-and-customary amount providers charge non-Medicaid clients for similar services) reported on Medicaid dental claims for

each dental service, excluding billed charges that are less than or equal to the published Medicaid fee for that service.

(B) Dental services provided by federally qualified health centers (FQHCs) are reimbursed in accordance with §355.8261 of this subchapter (relating to Federally Qualified Health Center Services Reimbursement).

(C) For services provided from October 1, 2011, through February 29, 2012, publicly owned dental providers may be eligible to receive supplemental payments for fee-for-service dental claims. HHSC will calculate supplemental payments using the following methodology:

(i) HHSC will select a commercial dental insurance carrier fee schedule that is utilized by the provider.

(ii) For adjudicated claims, the maximum amount of supplemental payment an eligible dental provider may receive is calculated as the difference between the HHSC approved reimbursement amount from the Medicaid fee-for-service dental fee schedule and the corresponding reimbursement on the dental insurance carrier fee schedule selected in clause (i) of this subparagraph for the same procedure. The supplemental payment is calculated quarterly after the end of each federal fiscal quarter. The supplemental payment is contingent on receipt of funds as specified in clause (iii) of this subparagraph.

(iii) The funding for the state share of supplemental payments to a dental provider is limited to and obtained through intergovernmental transfers of funds from the governmental entity that owns and operates the dental provider. An intergovernmental transfer that is not received in the manner and by the date specified by HHSC may not be accepted.

(iv) If a supplemental payment results in an overpayment or if the federal government disallows federal financial participation related to the receipt or use of supplemental payments under this section, HHSC may recoup an amount equal to the federal share of supplemental payments overpaid or disallowed. To satisfy the amount owed, HHSC may recoup from any current or future Medicaid payments.

(D) Subject to approval by the Centers for Medicare and Medicaid Services, for services provided on or after March 1, 2012, publicly owned dental providers may be eligible to receive Uncompensated Care payments for dental services under the Texas Healthcare Transformation and Quality Improvement 1115 Waiver. For purposes of this section, Uncompensated Care ("UC") payments are payments intended to defray the uncompensated costs of services that meet the definition of "medical assistance" contained in §1905(a) of the Social Security Act. HHSC will calculate UC payments using the following methodology:

(i) Eligible dental providers must submit an annual cost report based on the federal fiscal year. HHSC will provide the cost report form with detailed instructions to enrolled dental providers. Cost reports are due to HHSC 180 days after the close of the applicable reporting period. Providers must certify that expenditures submitted on the cost report have not been claimed on any other cost report.

(ii) Payments to eligible providers will be based on cost and payment data reported on the cost report along with supporting documentation. As defined in the cost report and detailed instructions, a cost-to-billed-charges ratio will be used to calculate total allowable cost. The total allowable cost minus any payments will be the UC payment due to the provider. The UC payment is calculated yearly and is contingent on receipt of funds as specified in clause (iii) of this subparagraph.

(iii) The funding for the state share of UC payments is limited to, and obtained through, intergovernmental transfers of funds from the governmental entity that owns and operates the dental provider. An intergovernmental transfer that is not received in the manner and by the date specified by HHSC may not be accepted.

(iv) If a UC payment results in an overpayment or if the federal government disallows federal financial participation related to the receipt or use of supplemental payments under this section, HHSC may recoup an amount equal to the federal share of supplemental payments overpaid or disallowed. To satisfy the amount owed, HHSC may recoup from any current or future Medicaid payments.

(11) Personal care services (PCS) are reimbursed in accordance with the following Medicaid reimbursement methodologies for the applicable provider type:

(A) School districts delivering PCS under School Health and Related Services (SHARS) are reimbursed in accordance with §355.8443 of this division (relating to Reimbursement Methodology for School Health and Related Services (SHARS)); and

(B) Providers other than school districts delivering PCS are reimbursed as follows:

(i) PCS and PCS delivered in conjunction with delegated nursing services are reimbursed fees determined by HHSC or its designee. The fees are determined using at least one of the following methods: a review of rates paid to providers delivering similar services; modeling using an analysis of other data available to HHSC; or a combination thereof, as determined appropriate by HHSC.

(ii) PCS delivered through the Consumer Directed Services payment option are reimbursed in accordance with §355.114 of this chapter (relating to Consumer Directed Services Payment Option).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 19, 2013.

TRD-201301137

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 8, 2013

Proposal publication date: January 11, 2013

For further information, please call: (512) 424-6900



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES

SUBCHAPTER H. STRUCTURAL PEST CONTROL SERVICE

DIVISION 2. LICENSES

4 TAC §7.127

The Texas Department of Agriculture (the department) adopts the amendment to §7.127, concerning the fee for structural pest

control examinations, without changes to the proposal published in the February 15, 2013, issue of the *Texas Register* (38 TexReg 733). The department has determined that contracting exam services through a proctored computer-based system will provide a greater convenience for structural pest control applicators, technicians, and apprentices by offering (1) a reduced cost in fees to persons taking exams; (2) more testing locations throughout the state; (3) testing opportunities of at least five days per week; and (4) 24-hour online exam registration. Through outsourcing structural pest control exams, the department will be able to reduce expenditures during fiscal year 2013 below the amount appropriated for the purpose of administering Structural Pest Control exams. As a direct result of this cost savings, the department is proposing an amendment to §7.127 to decrease fees for structural pest control exams by fifteen percent. Additionally, this amendment will comply with changes made to the structural pest control program by the 82nd Texas Legislature, which required that all of the costs of administering this program be entirely offset by revenue generated for the program, including other direct and indirect expenses (ODIC), and has authorized the agency to collect fees accordingly.

The amendment to §7.127 decreases the fee for all technician and certified applicator examinations from \$75 to \$64.

The department received a comment in support of the proposal from Don Ward on behalf of the Texas Structural Pest Control Association. The Association applauds the department's ongoing efforts to reduce costs while increasing services through the use of modern technology and concurs with the department that having more testing locations and testing opportunities will provide more convenience and will be a significant improvement in the testing system.

The amendments to §7.127 are adopted under Occupations Code, §1951.201, which designates the department as the sole authority in the state for licensing persons engaged in the business of structural pest control and provides the department with the authority to establish fees under Chapter 1951 in amounts reasonable and necessary to cover the costs of administering the department's programs and activities under Chapter 1951.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 19, 2013.

TRD-201301142

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: April 8, 2013

Proposal publication date: February 15, 2013

For further information, please call: (512) 463-4075



TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 502. PEER ASSISTANCE

22 TAC §502.1

The Texas State Board of Public Accountancy adopts an amendment to §502.1, concerning Peer Assistance to Licensees, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 463). The text of the rule will not be republished.

The amendment clarifies that the Board may refer a licensee or certificate holder to a peer assistance program, along with other appropriate actions, in response to a complaint for a violation of the rules or of the Act and for chemical dependency on drugs or alcohol or other mental health issues. The amendment also expands its program to include certificate holders and accounting students and makes other non-substantive changes to rule text.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301177

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



22 TAC §502.2

The Texas State Board of Public Accountancy adopts an amendment to §502.2, concerning Texas State Board of Public Accountancy Policy Statement of the Peer Assistance Oversight Committee, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 464). The text of the rule will not be republished.

The amendment clarifies chemical dependency as a dependency on drugs or alcohol, uses acronyms defined in §501.55, and makes other non-substantive changes to rule text.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301178

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



CHAPTER 511. ELIGIBILITY SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

22 TAC §511.53

The Texas State Board of Public Accountancy adopts new §511.53, concerning Evaluation of Foreign Education Documents, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 465). The text of the rule will not be republished.

The new rule clarifies the standards by which the board evaluates foreign education documents to determine course and degree equivalency with Board-recognized educational institutions.

No comments were received regarding adoption of the rule.

The new rule is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301179

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



SUBCHAPTER D. CPA EXAMINATION

22 TAC §511.77

The Texas State Board of Public Accountancy adopts an amendment to §511.77, concerning Scoring, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 466). The text of the rule will not be republished.

The amendment clarifies the score review process and its intended purpose.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the

agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301180

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



22 TAC §511.79

The Texas State Board of Public Accountancy adopts the repeal of §511.79, concerning Request for Review, without changes to the proposal as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 467) and will not be republished.

The repeal is necessary in order to transfer the language in this rule to §511.77, concerning Scoring.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301181

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



CHAPTER 519. PRACTICE AND PROCEDURE SUBCHAPTER B. COMPLAINTS AND INVESTIGATIONS

22 TAC §519.24

The Texas State Board of Public Accountancy adopts an amendment to §519.24, concerning Committee Recommendations, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 468). The text of the rule will not be republished.

The amendment permits the Board to take disciplinary action against a licensee when the respondent has failed to respond

to the Board and failed to request a hearing when provided the opportunity for a hearing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301182

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



CHAPTER 520. PROVISIONS FOR THE FIFTH-YEAR ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

22 TAC §520.1

The Texas State Board of Public Accountancy adopts an amendment to §520.1, concerning Authority and Purpose, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 469). The text of the rule will not be republished.

The amendment replaces terms with acronyms defined in §501.55.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301183

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §520.2

The Texas State Board of Public Accountancy adopts an amendment to §520.2, concerning Definitions, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 470). The text of the rule will not be republished.

The amendment corrects terms that should be lowercase and specifies a rule reference.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301184

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

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For further information, please call: (512) 305-7842



22 TAC §520.3

The Texas State Board of Public Accountancy adopts an amendment to §520.3, concerning Institutions, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 471). The text of the rule will not be republished.

The amendment corrects rule titles, replaces terms with acronyms defined in §501.55, and makes other non-substantive changes to rule text.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301185

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

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For further information, please call: (512) 305-7842



22 TAC §520.5

The Texas State Board of Public Accountancy adopts an amendment to §520.5, concerning Award Amounts and Uses, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 472). The text of the rule will not be republished.

The amendment replaces certain terms with the word "shall."

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §520.6

The Texas State Board of Public Accountancy adopts an amendment to §520.6, concerning Allocations and Reallocations, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 473). The text of the rule will not be republished.

The amendment corrects terms that should be lowercase.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301187

J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 10, 2013
Proposal publication date: February 1, 2013
For further information, please call: (512) 305-7842



22 TAC §520.7

The Texas State Board of Public Accountancy adopts an amendment to §520.7, concerning Disbursements to Institutions, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 474). The text of the rule will not be republished.

The amendment corrects terms that should be lowercase.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301188
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 10, 2013
Proposal publication date: February 1, 2013
For further information, please call: (512) 305-7842



22 TAC §520.8

The Texas State Board of Public Accountancy adopts an amendment to §520.8, concerning Retroactive Disbursements, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 475). The text of the rule will not be republished.

The amendment replaces certain terms with the word "shall" and deletes one word.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301189
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 10, 2013
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For further information, please call: (512) 305-7842



22 TAC §520.9

The Texas State Board of Public Accountancy adopts an amendment to §520.9, concerning Advisory Committee, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 476). The text of the rule will not be republished.

The amendment replaces terms with acronyms defined in §501.55.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: April 10, 2013
Proposal publication date: February 1, 2013
For further information, please call: (512) 305-7842



22 TAC §520.10

The Texas State Board of Public Accountancy adopts an amendment to §520.10, concerning Recognition of Accounting Firms Hiring and Offering Internships, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 477). The text of the rule will not be republished.

The amendment replaces the word "may" with "shall."

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301191

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



CHAPTER 525. CRIMINAL BACKGROUND INVESTIGATIONS

22 TAC §525.1

The Texas State Board of Public Accountancy adopts an amendment to §525.1, concerning Applications for the UCPAE, Issuance of the CPA Certificate, or a License, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 477). The text of the rule will not be republished.

The amendment replaces terms with acronyms defined in §501.55 and makes other non-substantive changes to rule text.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301192

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



22 TAC §525.2

The Texas State Board of Public Accountancy adopts an amendment to §525.2, concerning Application for or Renewal of a License for Applicants or Licensees with Criminal Backgrounds, without changes to the proposed text as published in the February 1, 2013, issue of the *Texas Register* (38 TexReg 479). The text of the rule will not be republished.

The amendment replaces terms with acronyms defined in §501.55, clarifies subsection (b) by making it easier to understand, and makes other non-substantive changes to rule text.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301193

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 10, 2013

Proposal publication date: February 1, 2013

For further information, please call: (512) 305-7842



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

CHAPTER 518. GENERAL PROCEDURES

SUBCHAPTER B. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

31 TAC §518.5

The Texas State Soil and Water Conservation Board (State Board) adopts the amendments to 31 TAC §518.5, concerning Historically Underutilized Business Program, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9866). The text of the rule will not be republished.

The amendments are adopted to make the rule compatible with statutes and rules of the Comptroller of Public Accounts.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Agriculture Code, Title 7, Chapter 201, §201.020, which authorizes the State Board to adopt rules that are necessary for the performance of its functions under the Agriculture Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 20, 2013.

TRD-201301162

Mel Davis

Special Projects Coordinator

Texas State Soil and Water Conservation Board

Effective date: April 9, 2013

Proposal publication date: December 21, 2012

For further information, please call: (254) 773-2250

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §4.13

The Texas Department of Public Safety (the department) adopts an amendment to §4.13, concerning Authority to Enforce, Training and Certificate Requirements. The amendment to §4.13 is adopted without changes to the proposed text as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 635). The text of the rule will not be republished.

The amendment is necessary to ensure this section is consistent with Texas Transportation Code, §644.101, which establishes which peace officers are eligible to enforce Chapter 644.

No comments were received regarding the adoption of the amendment.

The amendment is adopted pursuant to Texas Transportation Code, §644.051, which authorizes the director to adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles; and authorizes the director to adopt all or part of the federal safety regulations, by reference.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 20, 2013.

TRD-201301156

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: April 9, 2013

Proposal publication date: February 8, 2013

For further information, please call: (512) 424-5848

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PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 253. DEFINITIONS

37 TAC §253.1

The Texas Commission on Jail Standards adopts an amendment to §253.1, concerning Definitions, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10153).

The amendment is adopted in order to further add definitions and to provide clarity.

One comment was received regarding the definition of "Correctional Facility" by Laura Mueller, Assistant General Counsel for the Texas Municipal League. Ms. Mueller requested clarification because the definition could be interpreted to require municipal jails to comply with minimum jail standards.

Agency response: The proposed definition was written verbatim from the agency's enabling statute, Government Code §511.001(2). The agency's jurisdiction regarding municipal facilities is defined within Government Code §511.009(a).

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301171

Brandon S. Wood

Executive Director

Texas Commission on Jail Standards

Effective date: April 10, 2013

Proposal publication date: December 28, 2012

For further information, please call: (512) 463-8236

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CHAPTER 269. RECORDS AND PROCEDURES

SUBCHAPTER B. JAIL POPULATION REPORTS

37 TAC §269.12

The Texas Commission on Jail Standards adopts an amendment to §269.12, concerning Forms, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10154).

The amendment is adopted in order to include the agency website as a means to access population reporting forms.

No comments were received regarding the proposal.

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301175



CHAPTER 273. HEALTH SERVICES

37 TAC §273.5

The Texas Commission on Jail Standards adopts an amendment to §273.5, concerning Health Services, with changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10154).

The amendment is adopted to delete reference to the CARE system.

No comments were received regarding the proposal.

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§273.5. *Mental Disabilities/Suicide Prevention Plan.*

(a) Each sheriff/operator shall develop and implement a mental disabilities/suicide prevention plan, in coordination with available medical and mental health officials, approved by the Commission by March 31, 1997. The plan shall address the following principles and procedures:

(1) Training. Provisions for staff training (including frequency and duration) on the procedures for recognition, supervision, documentation, and handling of inmates who are mentally disabled and/or potentially suicidal. Supplemental training should be provided to those staff members responsible for intake screening;

(2) Identification. Procedures for intake screening to identify inmates who are known to be or observed to be mentally disabled and/or potentially suicidal and procedures for compliance with Code of Criminal Procedure Article 16.22 and referrals to available mental health officials;

(3) Communication. Procedures for communication of information relating to inmates who are mentally disabled and/or potentially suicidal;

(4) Housing. Procedures for the assignment of inmates who are mentally disabled and/or potentially suicidal to appropriate housing;

(5) Supervision. Provisions for adequate supervision of inmates who are mentally disabled and/or potentially suicidal and procedures for documenting supervision;

(6) Intervention and Emergency Treatment. Procedures for staff intervention prior to the occurrence of a suicide and during the progress of a suicide attempt, or serious deterioration of mental condition;

(7) Reporting. Procedures for reporting of completed suicides to appropriate outside authorities and family members; and

(8) Follow-Up Review. Procedures for follow-up review of policies by the sheriff/operator and mental health and medical officials following all attempted or completed suicides.

(b) Screening Instrument. An approved mental disabilities/suicide prevention screening instrument shall be completed immediately on all inmates admitted.

(c) Mental History Check. Each jail shall:

(1) check each inmate upon intake into the jail against the Department of State Health Services CCQ system to determine if the inmate has previously received state mental healthcare, unless the inmate is being housed as an out of state inmate or a federal inmate on a contractual basis;

(2) maintain documentation to be available at the time of inspection showing that information for each inmate designated in paragraph (1) of this subsection was submitted for CCQ system checks; and

(3) include any relevant mental health information on the mental health screening instrument and, if sentenced to the Department of Criminal Justice, on the Uniform Health Status form.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301170
Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Effective date: April 10, 2013
Proposal publication date: December 28, 2012
For further information, please call: (512) 463-8236



CHAPTER 279. SANITATION

37 TAC §279.1

The Texas Commission on Jail Standards adopts an amendment to §279.1, concerning Sanitation, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10155).

The amendment is adopted to clarify the requirement that each sanitation plan must be reviewed and to allow the utilization of public water and sewage systems.

No comments were received regarding the proposal.

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

TRD-201301172

Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Effective date: April 10, 2013
Proposal publication date: December 28, 2012
For further information, please call: (512) 463-8236

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CHAPTER 283. DISCIPLINE AND GRIEVANCES

37 TAC §283.1

The Texas Commission on Jail Standards adopts an amendment to §283.1, concerning Discipline and Grievances, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10155).

The amendment is adopted to allow for the sanction of restitution as part of the approved disciplinary plan.

No comments were received regarding the proposal.

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201301173
Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Effective date: April 10, 2013
Proposal publication date: December 28, 2012
For further information, please call: (512) 463-8236

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CHAPTER 297. COMPLIANCE AND ENFORCEMENT

37 TAC §297.8

The Texas Commission on Jail Standards adopts an amendment to §297.8, concerning Remedial Order by Commission, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10156).

The amendment is adopted to self-initiate the review of an order by the commission.

No comments were received regarding the proposal.

The amendment is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2013.

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Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
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For further information, please call: (512) 463-8236

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PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 349. GENERAL ADMINISTRATIVE STANDARDS

SUBCHAPTER D. COMPLAINTS AGAINST JUVENILE BOARDS

37 TAC §349.410

The Texas Juvenile Justice Department (TJJD) adopts amendments to §349.410, concerning Administrative Review and Appeal of Investigation Findings, with changes to the proposed text as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 636). Changes consist of clarification in subsection (f) that the staff member who conducts the administrative review will be a staff attorney. This change was a verbal amendment made during the TJJD Board approval process for the proposed rule text. However, the verbal amendment was inadvertently omitted from the proposed text submitted to the Texas Register.

The amended section makes several changes to the process by which TJJD conducts administrative reviews of investigation findings in cases of alleged abuse, neglect, or exploitation occurring in county-level facilities. TJJD will no longer provide an in-person hearing in every case where an administrative review is requested. Additionally, the deadline for the designated perpetrator or administrative designee named in the investigation report to submit a request for an administrative review has been reduced from 45 days to 20 days.

The amended section also changes the process for appealing the results of the administrative review. For persons named as designated perpetrators, there is no longer a provision allowing for separate hearings at the State Office of Administrative Hearings (SOAH) to rule on (1) the results of the administrative review, and (2) any discipline taken against the person's certification as a juvenile supervision officer or juvenile probation officer. Results of the administrative review may only be appealed to SOAH in connection with a subsequent hearing on the discipline.

The justification for the amended rule is to increase the efficiency and timeliness of certified officer disciplinary actions.

TJJD did not receive any public comments regarding the proposed amendments.

The amended section is adopted under Human Resources Code §222.053, which authorizes TJJD to enforce minimum standards for juvenile probation and detention staff through disciplinary actions on required certifications, and Family Code §261.405, which requires TJJD to conduct investigations of alleged abuse, neglect, or exploitation in any juvenile justice program or facility.

§349.410. *Administrative Review and Appeal of Investigation Findings.*

(a) Any person named by the Texas Juvenile Justice Department (TJJD) as a designated perpetrator or administrative designee as a result of an investigation conducted under Chapter 350 of this title may request an administrative review of the investigation findings.

(b) The designated perpetrator or administrative designee shall request the review in writing within 20 calendar days after receiving TJJD's written notice of the investigation findings.

(c) If civil or criminal proceedings related to an allegation that TJJD has investigated are pending when a designated perpetrator or administrative designee requests an administrative review, or if such proceedings are initiated before TJJD begins the review, TJJD may postpone the review until the proceedings are completed.

(d) The designated perpetrator or administrative designee has a right to:

(1) represent himself/herself or be represented by an authorized representative; and

(2) submit relevant evidence on his/her behalf.

(e) If TJJD chooses to interview a designated perpetrator or administrative designee who does not speak English or is hearing impaired, TJJD shall provide a certified translator or interpreter unless the designated perpetrator or administrative designee chooses to provide his/her own certified translator or interpreter. If the designated perpetrator or administrative designee chooses to provide his/her own certified translator or interpreter, he/she will be responsible for all costs incurred in connection with the review.

(f) The administrative review shall be conducted by a staff attorney appointed by the TJJD general counsel. The staff attorney shall confirm or revise TJJD's original notice of the investigation findings based on the same policies applied by TJJD during the original investigation. Within 45 calendar days after receiving the request for review, TJJD shall notify the designated perpetrator or administrative designee of the outcome of the review.

(g) An administrative designee may appeal the findings of the administrative review to the State Office of Administrative Hearings (SOAH). To file such an appeal, the administrative designee must submit a written request to TJJD within 20 calendar days after the date TJJD mailed the findings of the administrative review to the administrative designee. A designated perpetrator may appeal the findings of the administrative review to SOAH only in conjunction with discipline issued by TJJD.

(h) If the administrative review or SOAH hearing results in changes to the original findings, TJJD staff must:

(1) enter the revised findings into the investigation record; and

(2) notify each person who was notified of the original findings that the findings have been revised.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 22, 2013.

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Brett Bray

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For further information, please call: (512) 424-6014



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 208. EMPLOYMENT PRACTICES

SUBCHAPTER A. JOB APPLICATION PROCEDURES

43 TAC §208.7

The Texas Department of Motor Vehicles (department) adopts the repeal of §208.7, concerning Transition of Vacant Positions, without changes to the proposed text as published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9336).

EXPLANATION OF ADOPTED REPEAL

The repeal is necessary because the rule no longer serves a business purpose.

House Bill 3097, 81st Legislature, Regular Session, 2009, created the Texas Department of Motor Vehicles from part of the motor carrier, motor vehicle, vehicle titles and registration, and automobile burglary and theft prevention authority divisions of TxDOT. Section 6.03 of that bill provided that TxDOT could transfer vacant full-time equivalent employee positions to the department through a Memorandum of Understanding in order to efficiently and effectively transition the department into a self-sufficient agency. The transfer of the vacant positions was intended to provide positions to fulfill the administrative functions of the department.

House Bill 3097 provided that in filling these positions, the department was to give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of TxDOT.

This preferential provision was included as a hard coded statement in the department's Human Resources online (HR Online), workforce management system used by TxDMV for hiring the initial 66 identified central administrative positions. By July 1, 2011, those 66 positions had been filled. The provision was removed from the department HR online workforce management system by TxDOT on November 4, 2011, so it is no longer used.

COMMENTS

No comments on the proposed repeal were received.

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §1002.001, which provides the Board of the Texas Department of Motor Vehicles with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 1001.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) adopts amendments to Subchapter A, §217.3, Motor Vehicle Titles, and Subchapter B, §217.22, Motor Vehicle Registration, both relating to Vehicle Titles and Registration. The amendments are adopted with changes to the proposed text as published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9337) and will be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The adopted amendments are necessary to comply with the requirements of House Bill 2357, 82nd Legislature, Regular Session, 2011, which created Transportation Code, §520.004 requiring the department to establish standards for uniformity and service quality for the titling and registration of vehicles by the counties.

In response, the department formed a Standards Committee in conjunction with County Tax Assessor-Collectors (TACs). These rules implement the consensus of that committee as well as clarification of existing rule.

Section 217.3(g) clarifies that a TAC must hold county hearings for an interested person who has been refused a title, has a title revoked, or has a title suspended in accordance with Transportation Code, §501.052. Such a hearing may be appealed to a court with jurisdiction.

Section 217.3(j) is added to provide consistency in charging fees. The department and the county will charge the fees provided by statute or by rule.

Section 217.3(j)(1) is added to clarify the charges related to mechanics' liens. A county is required by Property Code, §70.006 to send out notice of liens, and may charge a \$25 fee. This paragraph provides that the \$25 is to be charged once per vehicle. If the mechanic needs to return with additional documentation in order for the county to process the notice, a second \$25 will not be charged.

Section 217.3(j)(2) is added to clarify that there is no charge for issuance of a title receipt or a duplicate title receipt at the time of application.

In accordance with the Transportation Code, §502.045, §217.22(d)(5) is clarified to explain that if a person has been arrested or cited for operation of a vehicle without registration then the full annual registration fee will be collected without

change to the registration month. The remaining changes to the subsection combine information for ease of reference but do not change the substance.

Section 217.22(d)(5)(E) is revised to include a non-substantive punctuation change.

Section 217.22(f) is added to provide proof of eligibility for farm plates. An application for farm plates must be accompanied by a copy of the applicant's Texas Agriculture or Timber Registration card issued by the Texas Comptroller of Public Accounts. The card must be current, be legible, contain a registration number, and be in the name of the person or dba in which the vehicle will be registered.

Section 217.22(n) is added to provide consistency in charging fees. The department and the county will charge the fees provided by statute or by rule. The subsection clarifies that the \$2 fee for a duplicate registration receipt will be charged only if the receipt is printed for the customer.

COMMENTS

Comments were received from the Tax Assessor-Collectors (TACs) in the counties of Aransas, Brazoria, Cherokee, Hood, Midland, Montgomery, Randall, Refugio, Victoria, Wheeler, Wichita, and Young. Comments were also received from the Tax Assessor-Collector Association of Texas (TACA) and the DMV Standards Committee.

All commenters asked the department not to adopt the training standards for tax assessor-collectors and their staff.

RESPONSE

Proposed §217.3(j) and §217.22(n) would have required new county employees to complete five department introductory on-line modules within the first six months of hire and an additional five modules within the first year of hire. A new county TAC would have been required to complete the online county TAC training within the first year of election or appointment. The proposed rule allowed the county to substitute its own training. Since the rule was proposed, the department has learned that TACA plans to propose legislative changes to include a training program. At this time, the department removes the proposed §217.3(j) and §217.22(n) for further discussion and review with neither concurrence nor disagreement with comments or position.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.3

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the Board of the Texas Department of Motor Vehicles with the authority to establish rules for the conduct of the work of the department, and Transportation Code, §§501.0041, 502.0021, and 520.003, which provide the Board of the Texas Department of Motor Vehicles with the authority to establish rules for each respective chapter of the Transportation Code; more specifically, Transportation Code, §520.004, which authorizes the department to establish standards for uniformity and service quality for the registering and titling of motor vehicles.

CROSS REFERENCE TO STATUTE

Property Code, §70.006, and Transportation Code, §§501.024, 501.052, 501.132, 502.045, and 502.058.

§217.3. *Motor Vehicle Titles.*

(a) Titles. Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be registered in accordance with Transportation Code, Chapter 502, shall apply for a Texas title in accordance with Transportation Code, Chapter 501.

(1) Motorcycles, motor-driven cycles, and mopeds.

(A) The title requirements of a motorcycle, motor-driven cycle, and moped are the same requirements prescribed for any motor vehicle.

(B) A vehicle that meets the criteria for a moped and has been certified as a moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle for title and registration purposes.

(2) Farm vehicles.

(A) The term motor vehicle does not apply to implements of husbandry, which may not be titled.

(B) Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code, §502.453, are required to be titled and registered with "Exempt" license plates issued in accordance with Transportation Code, §502.451.

(C) Farm tractors used as road tractors to mow rights of way or used to move commodities over the highway for hire are required to be registered and titled.

(D) Farm semitrailers with a gross weight of more than 4,000 pounds that are registered in accordance with Transportation Code, §502.146, may be issued a Texas title.

(3) Neighborhood electric vehicles. The title requirements of a neighborhood electric vehicle (NEV) are the same requirements prescribed for any motor vehicle.

(4) Exemptions from title. Vehicles registered with the following distinguishing license plates may not be titled under Transportation Code, Chapter 501:

(A) vehicles eligible for machinery license plates and permit license plates in accordance with Transportation Code, §502.146; and

(B) vehicles eligible for farm trailer license plates in accordance with Transportation Code, §502.433, unless the owner chooses to title a farm semitrailer with a gross weight of more than 4,000 pounds that is registered in accordance with §502.146, as provided by Transportation Code, §501.036.

(5) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply for and receive a Texas title for any stand alone (full) trailer, including homemade or shopmade full trailers, or any semitrailer having a gross weight in excess of 4,000 pounds. House trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this paragraph to be titled.

(A) In the absence of a manufacturer's rated carrying capacity for a trailer or semitrailer, the rated carrying capacity will not be less than one-third of its empty weight.

(B) Mobile office trailers, mobile oil field laboratories, and mobile oil field bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be registered and titled as commercial semitrailers if operated on the public streets and highways.

(C) House trailer-type vehicles and camper trailers must meet the following criteria in order to be titled.

(i) A house trailer-type vehicle designed for living quarters and that is eight body feet or more in width or forty body feet or more in length (not including the hitch), is classified as a manufactured home or mobile home and is titled under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, administered by the Texas Department of Housing and Community Affairs.

(ii) A house trailer-type vehicle that is less than eight feet in width and less than forty feet in length is classified as a travel trailer and shall be registered and titled.

(iii) A camper trailer shall be titled as a house trailer and shall be registered with travel trailer license plates.

(iv) A recreational park model type trailer that is primarily designed as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400 square feet or less when measured at the largest horizontal projection when in the set up mode shall be titled as a house trailer and may be issued travel trailer license plates. If the park model type trailer exceeds one hundred two inches in width or forty feet in length, the title will include a brand to indicate that an oversize permit must be obtained to move the trailer on the public roads.

(6) Vehicles that may not be titled. The department will not title a vehicle, with the exception of a trailer as defined in Transportation Code, §501.002, that does not have a body, motor, and frame manufactured by a motor vehicle manufacturer.

(b) Initial application for title.

(1) Time for application. A person must apply for the title not later than the 30th day after the date of assignment, except:

(A) that in a seller-financed sale, the title must be applied for not later than the 45th day after the date the motor vehicle is delivered to the purchaser;

(B) as provided by §215.144(e) of this title (relating to Record of Sales and Inventory); or

(C) a member of the armed forces or a member of a reserve component of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty, must apply not later than the 60th day after the date of assignment of ownership.

(2) Place of application. When motor vehicle ownership is transferred, a title application must be filed with the county tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered, as selected by the applicant, except:

(A) as provided by Transportation Code, Chapters 501 and 502 and by §217.63(a) of this chapter (relating to Application for Non-repairable or Salvage Vehicle Title); or

(B) if a county has been declared a disaster area, the resident may apply at the closest unaffected county if the affected county tax assessor-collector estimates the county offices will be inoperable for a protracted period.

(3) Information to be included on application. An applicant for an initial title must file an application on a form prescribed by the department. The form will at a minimum require the:

(A) motor vehicle description including, but not limited to, the motor vehicle's:

(i) year;

(ii) make;

- (iii) model;
- (iv) identification number;
- (v) body style;
- (vi) manufacturer's rated carrying capacity for commercial motor vehicles; and
- (vii) empty weight;

(B) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(C) odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(D) previous owner's name and city and state of residence;

(E) name and complete address of the applicant;

(F) name and mailing address of any lienholder and the date of lien, if applicable;

(G) signature of the seller of the motor vehicle or the seller's authorized agent and the date the title application was signed; and

(H) signature of the applicant or the applicant's authorized agent and the date the title application was signed.

(4) Vehicle identification number. If no vehicle identification number is die-stamped by the manufacturer on a motor vehicle, house trailer, trailer, semitrailer, or item of equipment required to be titled, or if the vehicle identification number assigned and die-stamped by the manufacturer has been lost, removed, or obliterated, the department will on proper application, presentation of evidence of ownership, and presentation of evidence of a law enforcement physical inspection, assign a vehicle identification number to the motor vehicle, trailer, or equipment. The manufacturer's vehicle identification number or the assigned vehicle identification number will be used by the department as the major identification of the motor vehicle or trailer in the issuance of a title.

(5) Accompanying documentation. The title application must be supported by, at a minimum, the following documents:

(A) evidence of vehicle ownership, as described in subsection (c) of this section;

(B) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(C) proof of financial responsibility in the applicant's name, as required by Transportation Code, §502.046, unless otherwise exempted by law;

(D) an identification certificate if required by Transportation Code, §548.256, and Transportation Code, §501.030, and if the vehicle is being titled and registered, or registered only; and

(E) a release of any liens, provided that if any liens are not released, they will be carried forward on the new title application with the following limitations.

(i) A lien recorded on out-of-state evidence as described in subsection (c) of this section cannot be carried forward to a Texas title when there is a transfer of ownership, unless a release of lien or authorization from the lienholder is attached.

(ii) A lien recorded on out-of-state evidence as described in subsection (c) of this section is not required to be released when there is no transfer of ownership from an out-of-state title and the same lienholder is being recorded on the Texas application as is recorded on the out-of-state title.

(c) Evidence of motor vehicle ownership. Evidence of motor vehicle ownership properly assigned to the applicant must accompany the title application. Evidence must include, but is not limited to, the following documents.

(1) New motor vehicles. A manufacturer's certificate of origin assigned by the manufacturer or the manufacturer's representative or distributor to the original purchaser is required for a new motor vehicle that is sold or offered for sale.

(A) The manufacturer's certificate of origin must be in the form prescribed by the department and must contain, at a minimum, the following information:

(i) motor vehicle description including, but not limited to, the motor vehicle's year, make, model, identification number, body style and empty weight;

(ii) the manufacturer's rated carrying capacity when the manufacturer's certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term is defined in Transportation Code, Chapter 502;

(iii) a statement identifying a motor vehicle designed by the manufacturer for off-highway use only; and

(iv) if the vehicle is a "neighborhood electric vehicle", a statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500) for low-speed vehicles.

(B) When a motor vehicle manufactured in another country is sold directly to a person other than a manufacturer's representative or distributor, the manufacturer's certificate of origin must be assigned to the purchaser by the seller.

(2) Used motor vehicles. A title issued by the department, a title issued by another state if the motor vehicle was last registered and titled in another state, or other evidence of ownership must be relinquished in support of the title application for any used motor vehicle. A letter of Title and Registration verification is required from a vehicle owner coming from a state that no longer titles vehicles after a certain period of time.

(3) Motor vehicles brought into the United States. An application for title for a motor vehicle last registered or titled in a foreign country must be supported by documents including, but not limited to, the following:

(A) the motor vehicle registration certificate or other verification issued by a foreign country reflecting the name of the applicant as the motor vehicle owner, or reflecting that legal evidence of ownership has been legally assigned to the applicant;

(B) verification of the vehicle identification number of the vehicle, on a form prescribed by the department, executed by a member of:

(i) the National Insurance Crime Bureau;

(ii) the Federal Bureau of Investigation; or

(iii) a law enforcement auto theft unit; and

(C) for motor vehicles that are less than 25 years old, proof of compliance with United States Department of Transportation

(USDOT) regulations, including, but not limited to, the following documents:

(i) the original bond release letter with all attachments advising that the motor vehicle meets federal motor vehicle safety requirements or a letter issued by the USDOT, National Highway Traffic Safety Administration, verifying the issuance of the original bond release letter;

(ii) a legible copy of the motor vehicle importation form validated with an original United States Customs stamp, date, and signature as filed with the USDOT confirming the exemption from the bond release letter required in clause (i) of this subparagraph, or a copy thereof certified by United States Customs;

(iii) a verification of motor vehicle inspection by United States Customs certified on its letterhead and signed by its agent verifying that the motor vehicle complies with USDOT regulations;

(iv) a written confirmation that a physical inspection of the safety certification label has been made by the department and that the motor vehicle meets United States motor vehicle safety standards;

(v) the original bond release letter, verification thereof, or written confirmation from the previous state verifying that a bond release letter issued by the USDOT was relinquished to that jurisdiction, if the non United States standard motor vehicle was last titled or registered in another state for one year or less; or

(vi) verification from the vehicle manufacturer on its letterhead stationery.

(4) Alterations to documentation. An alteration to a registration receipt, title, manufacturer's certificate, or other evidence of ownership constitutes a valid reason for the rejection of any transaction to which altered evidence is attached.

(A) Altered lien information on any surrendered evidence of ownership requires a release from the original lienholder or a statement from the proper authority of the state in which the lien originated. The statement must verify the correct lien information.

(B) A strikeover that leaves any doubt about the legibility of any digit in any document will not be accepted.

(C) A corrected manufacturer's certificate of origin will be required if the manufacturer's certificate of origin contains an:

(i) incomplete or altered vehicle identification number;

(ii) alteration or strikeover of the vehicle's model year;

(iii) alteration or strikeover to the body style, or omitted body style on the manufacturer's certificate of origin; or

(iv) alteration or strikeover to the manufacturer's rated carrying capacity.

(D) A Statement of Fact may be requested to explain errors, corrections, or conditions from which doubt does or could arise concerning the legality of any instrument. A Statement of Fact will be required in all cases:

(i) in which the date of sale on an assignment has been erased or altered in any manner; or

(ii) of alteration or erasure on a Dealer's Reassignment of Title.

(5) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by a natural person acting in an individual capacity in accordance with Transportation Code, §501.031.

(6) Identification required through August 31, 2013.

(A) An application for title is not acceptable unless the applicant presents a government-issued current photo identification of the owner containing a unique identification number, expiration date, and birth date. The identification document may also be a document listed in paragraph (7)(A) of this subsection.

(B) The requirements of paragraph (7)(B) - (E) apply to this paragraph.

(7) Identification required on or after September 1, 2013.

(A) An application for title is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number and expiration date. The identification document must be a:

(i) driver's license or state identification certificate issued by a state or territory of the United States;

(ii) United States or foreign passport;

(iii) United States military identification card;

(iv) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; or

(v) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document.

(B) If the motor vehicle is titled in:

(i) more than one name, then the identification of one owner must be presented;

(ii) the name of a leasing company, then the identification of the lessee or lessor's employee along with a business card or authorization written on the lessor's letterhead matching the identification of the employee must be presented;

(iii) the name of a trust, then the identification of a trustee must be presented; or

(iv) the name of a business, government entity, or organization, then a business card or authorization written on letterhead must be presented matching the identification of the applicant.

(C) If a power of attorney is being used to apply for a title, then the applicant must show:

(i) identification matching the person or employee of the entity named as power of attorney;

(ii) a business card or authorization written on the letterhead of an entity named as power of attorney that matches the identification of the employee; and

(iii) identification of the owner or lienholder.

(D) Within this subsection, "current" is defined as not to exceed 12 months of expiration date.

(E) A person who holds a general distinguishing number issued under Chapter 503 of the Transportation Code or Chapter 2301, Occupations Code, is not required to submit the owner's identification to the county tax assessor-collector, but must retain a copy of the owner's current photo identification in the purchase and sales records as required under §215.144 of this title (relating to Record of Sales and Inventory).

(d) Title issuance.

(1) Issuance. The department or its designated agent will issue a receipt and process the application for title on receipt of:

(A) a completed application for title;

(B) accompanying documentation required by subsections (b)(4) and (c) of this section;

(C) the statutory fee for a title application, unless exempt under:

(i) Transportation Code, §501.138; or

(ii) Government Code, §431.039 and copies of official military orders are presented as evidence of the applicant's active duty status and deployment orders to a hostile fire zone; and

(D) any other applicable fees.

(2) Titles. The department will issue and mail or deliver a title to the applicant or, in the event that there is a lien disclosed in the application, to the first lienholder.

(3) Receipt. The receipt issued at the time of application for title may be used only as evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new lien.

(e) Replacement of title. If a title is lost or destroyed, the department will issue a certified copy of the title to the owner, the lienholder, or a verified agent of the owner or lienholder in accordance with Transportation Code, Chapter 501, on proper application and payment of the appropriate fee to the department.

(1) Identification required.

(A) An owner or lienholder may not apply for a certified copy of title unless the applicant presents a current photo identification of the owner or lienholder containing a unique identification number and expiration date. The identification document must be a:

(i) driver's license or state identification certificate issued by a state or territory of the United States;

(ii) United States or foreign passport;

(iii) United States military identification card;

(iv) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; or

(v) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document.

(B) If the motor vehicle is titled in:

(i) more than one name, then the identification for each owner must be presented;

(ii) the name of a leasing company, then the identification of the lessor's employee along with a business card or authorization written on the lessor's letterhead matching the identification of the employee must be presented;

(iii) the name of a trust, then the identification of a trustee must be presented; or

(iv) the name of a business, government entity, or organization, then a business card or authorization written on letterhead must be presented matching the identification of the applicant.

(C) If a power of attorney is being used to apply for a certified copy of title, then the applicant must show:

(i) identification matching the person or employee of the entity named as power of attorney;

(ii) a business card or authorization written on the letterhead of an entity named as power of attorney that matches the identification of the employee; and

(iii) identification of the owner or lienholder.

(D) Within this subsection, "current" is defined as within six months of expiration date.

(2) Issuance. An application for a certified copy must be properly executed and supported by appropriate verifiable proof for the vehicle owner, lienholder, or agent regardless of whether the application is submitted in person or by mail.

(3) Denial. If issuance of a certified copy is denied, the applicant may resubmit the request with the required verifiable proof or may pursue the privileges available in accordance with Transportation Code, §501.052 and §501.053.

(4) Certified copy designation. A certified copy of an existing title will be marked "Certified Copy" until ownership of the vehicle is transferred, when the words "Certified Copy" will be eliminated from the new title.

(5) Fees. The fee for obtaining a certified copy of a title is \$2 if the application is submitted to the department by mail and \$5.45 if the application is submitted in person for expedited processing at one of the department's regional offices.

(f) Department notification of second hand vehicle transfers. A transferor of a motor vehicle may voluntarily make written notification to the department of the sale of the vehicle, in accordance with Transportation Code, §501.147. The written notification may be submitted to the department by mail, in person at one of the department's regional offices, or electronically through the department's Internet website.

(1) Records. On receipt of written notice of transfer from the transferor of a motor vehicle, the department will mark its records to indicate the date of transfer and will maintain a record of the information provided on the written notice of transfer.

(2) Title issuance. A title will not be issued in the name of a transferee until the transferee files an application for the title as described in this section.

(g) Bonded titles and County Tax Assessor-Collector Hearings.

(1) Application for bonded title. A person who has an interest in a motor vehicle to which the department has refused to issue a title or has suspended or revoked a title may file a bond with the department on a department form.

(A) Value. The amount of the bond must be equal to one and one-half times the value of the vehicle as determined using the Standard Presumptive Value (SPV) from the department's Internet website. If the SPV is not available, then a national reference guide will be used. If the value cannot be determined by either source, then the person may obtain an appraisal.

(i) The appraisal must be on a department form from a Texas licensed motor vehicle dealer for the categories of motor vehicles that the dealer is licensed to sell or a Texas licensed insurance adjuster who may appraise any type of motor vehicle.

(ii) The appraisal must be dated and be submitted to the county tax assessor-collector within 30 days of the purchase or assignment.

(iii) If the motor vehicle is 25 years or older, an appraisal less than \$4,000 will not be accepted.

(B) Administrative Fee. The applicant must pay the department a \$15 administrative fee in addition to any other required fees.

(C) Out-of-state vehicles. If the applicant is a Texas resident, but the evidence indicates that the vehicle is an out-of-state vehicle, the vehicle identification number must be verified by a Texas licensed Safety Inspection Station, a law enforcement officer, or a department Regional Service Center on a form prescribed by the department.

(D) Issuance. On the filing of the bond, the department may issue a title.

(2) Appeal of refusal to Issue, or Revocation or Suspension of Title.

(A) The county tax assessor-collector must hold a hearing upon the application by an interested person aggrieved by a refusal to issue title, or a revocation or suspension of title.

(B) A person wishing to appeal the county tax assessor-collector hearing may appeal to a court with jurisdiction.

(h) Rescission, cancellation or revocation by affidavit.

(1) The department may rescind, cancel, or revoke an application for a title if a notarized affidavit is completed and presented to the department within 21 days of initial sale containing:

(A) a statement that the vehicle involved was a new motor vehicle in the process of a first sale;

(B) a statement that the dealer, the applicant, and any lienholder have canceled the sale;

(C) a statement that the vehicle was:

(i) never in possession of the title applicant; or

(ii) in the possession of the title applicant;

(D) the signatures of the dealer, the applicant, and any lienholder as principal to the document; and

(E) an odometer disclosure statement executed by the purchaser of the motor vehicle and acknowledged by the dealer if a statement is made pursuant to subparagraph (C)(ii) of this paragraph to be used for the purpose of determining usage subsequent to sale.

(2) A rescission, cancellation, or revocation containing the statement authorized under paragraph (1)(C)(ii) of this subsection does not negate the fact that the vehicle has been subject to a previous retail sale.

(i) Discharge of lien. A lienholder shall provide the owner, or the owner's designee, a discharge of the lien after receipt of the final payment within the time limits specified in Transportation Code, Chapter 501. The lienholder shall submit one of the following documents:

(1) the title including an authorized signature in the space reserved for release of lien;

(2) a release of lien form prescribed by the department, with the form filled out to include the:

(A) title or document number, or a description of the motor vehicle including, but not limited to, the motor vehicle's:

(i) year;

(ii) make;

(iii) vehicle identification number; and

(iv) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(B) printed name of lienholder;

(C) signature of lienholder or an authorized agent;

(D) printed name of the authorized agent if the agent's signature is shown;

(E) telephone number of lienholder; and

(F) date signed by the lienholder;

(3) signed and dated correspondence submitted on company letterhead that includes:

(A) a statement that the lien has been paid;

(B) a description of the vehicle as indicated in paragraph (2)(A) of this subsection;

(C) a title or document number; or

(D) lien information;

(4) any out-of-state prescribed release of lien form, including an executed release on a lien entry form;

(5) out-of-state evidence with the word "Paid" or "Lien Satisfied" stamped or written in longhand on the face, followed by the name of the lienholder, countersigned or initialed by an agent, and dated; or

(6) original security agreements or copies of the original security agreements if the originals or copies are stamped "Paid" or "Lien Satisfied" with a company paid stamp or if they contain a statement in longhand that the lien has been paid followed by the company's name.

(j) Fees. The department and the county will charge required fees, and only those fees provided by statute or by rule.

(1) Mechanic lien fees. The \$25 fee provided by Property Code, §70.006 may be charged once per vehicle.

(2) There is no charge for issuance of title receipt or the duplicate of title receipt at the time of application.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301232

Margaret A. Wilson

General Counsel

Texas Department of Motor Vehicles

Effective date: April 14, 2013

Proposal publication date: November 23, 2012

For further information, please call: (512) 467-3853



SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.22

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the Board of the Texas Department

of Motor Vehicles with the authority to establish rules for the conduct of the work of the department, and Transportation Code, §§501.0041, 502.0021, and 520.003, which provide the Board of the Texas Department of Motor Vehicles with the authority to establish rules for each respective chapter of the Transportation Code; more specifically, Transportation Code, §520.004, which authorizes the department to establish standards for uniformity and service quality for the registering and titling of motor vehicles.

CROSS REFERENCE TO STATUTE

Property Code, §70.006, and Transportation Code, §§501.024, 501.052, 501.132, 502.045, and 502.058.

§217.22. *Motor Vehicle Registration.*

(a) Registration. Unless otherwise exempted by law or this chapter, a vehicle to be used on the public highways of this state must be registered in accordance with Transportation Code, Chapter 502 and the provisions of this section. Transportation Code, Chapter 501, Subchapter E prohibits registration of a vehicle whose owner has been issued a salvage or nonrepairable vehicle title. These vehicles may not be operated on a public roadway.

(b) Initial application for vehicle registration.

(1) An applicant for initial vehicle registration must file an application on a form prescribed by the department. The form will at a minimum require:

(A) the signature of the owner;

(B) the motor vehicle description, including, but not limited to, the motor vehicle's year, make, model, vehicle identification number, body style, carrying capacity for commercial motor vehicles, and empty weight;

(C) the license plate number;

(D) the odometer reading, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(E) the name and complete address of the applicant; and

(F) the name, mailing address, and date of any liens.

(2) The application must be accompanied by the following documents:

(A) evidence of vehicle ownership as specified in Transportation Code, §501.030, unless the vehicle has been issued a nonrepairable or salvage vehicle title in accordance with Transportation Code, Chapter 501, Subchapter E;

(B) registration fees prescribed by law;

(C) any local fees or other fees prescribed by law and collected in conjunction with registering a vehicle;

(D) evidence of financial responsibility required by Transportation Code, §502.046, unless otherwise exempted by law; and

(E) any other documents or fees required by law.

(3) An initial application for registration must be filed with the tax assessor-collector of the county in which the owner resides, except:

(A) an application for registration as a prerequisite to filing an application for title may also be filed with the county tax assessor-collector in the county in which the motor vehicle is purchased or encumbered; or

(B) if a county has been declared a disaster area, the resident may apply at the closest unaffected county if the affected county tax assessor-collector estimates the county offices will be inoperable for a protracted period.

(4) The recorded owner of a vehicle that was last registered or titled in another jurisdiction and is subject to registration in this state may apply for registration if the owner cannot or does not wish to relinquish the negotiable out-of-state evidence of ownership to obtain a Texas title. On receipt of a form prescribed by the department and payment of the statutory fee for a title application and any other applicable fees, the department will issue a registration receipt to the applicant.

(A) Registration receipt. The receipt issued at the time of application may serve as proof of registration and evidences title to a motor vehicle for registration purposes only, but may not be used to transfer any interest or ownership in a motor vehicle or to establish a lien.

(B) Information to be included on the form. The form will include the:

(i) out-of-state title number, if applicable;

(ii) out-of-state license plate number, if applicable;

(iii) state or country that issued the out-of-state title or license plate;

(iv) lienholder name and address as shown on the out-of-state evidence, if applicable;

(v) statement that negotiable evidence of ownership is not being surrendered; and

(vi) signature of the applicant or authorized agent of the applicant.

(C) Accompanying documentation. An application for registration under this paragraph must be supported, at a minimum, by:

(i) a completed application for registration, as specified in paragraph (1) of this subsection;

(ii) presentation, but not surrender of, evidence from another jurisdiction demonstrating that legal evidence of ownership has been issued to the applicant as the motor vehicle's owner, such as a validated title, a registration receipt that is not more than six months past the date of expiration, a non-negotiable title, or written verification from the other jurisdiction; and

(iii) any other documents or fees required by law.

(D) Assignment. In instances in which the title or registration receipt is assigned to the applicant, an application for registration purposes only will not be processed. The applicant must apply for a title under Transportation Code, Chapter 501.

(E) Identification required through August 31, 2013.

(i) An application for initial registration is not acceptable unless the applicant presents a government-issued current photo identification of the owner containing a unique identification number, expiration date, and birth date. The identification document may also be a document listed in subparagraph (F)(i) of this paragraph.

(ii) The requirements of subparagraph (F)(ii) - (vi) apply to this subparagraph.

(F) Identification required on or after September 1, 2013.

(i) An application for initial registration is not acceptable unless the applicant presents a current photo identification of

the owner containing a unique identification number and expiration date. The identification document must be a:

- (I) driver's license or state identification certificate issued by a state or territory of the United States;
- (II) United States or foreign passport;
- (III) United States military identification card;
- (IV) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; or
- (V) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document.

(ii) If the motor vehicle is titled in:

(I) more than one name, then the identification for one owner must be presented;

(II) the name of a leasing company, then the identification of the lessee or lessor's employee along with a business card or authorization written on the lessor's letterhead matching the identification of the employee must be presented;

(III) the name of a trust, then the identification of a trustee must be presented; or

(IV) the name of a business, government entity, or organization, then a business card or authorization written on letterhead must be presented matching the identification of the applicant.

(iii) If a power of attorney is being used to apply for a certified copy of title, then the applicant must show:

(I) identification matching the person or employee of the entity named as power of attorney;

(II) a business card or authorization written on the letterhead of an entity named as power of attorney that matches the identification of the employee; and

(III) identification of the owner.

(iv) Within this subparagraph, "current" is defined as not to exceed 12 months of expiration date.

(v) A person who holds a general distinguishing number issued under Chapter 503 of the Transportation Code or Chapter 2301, Occupations Code, is not required to submit the owner's identification to the county tax assessor-collector, but must retain a copy of the owner's current photo identification in the purchase and sales records as required under §215.144 of this title (relating to Records of Sales and Inventory).

(vi) This paragraph does not apply to non-titled vehicles.

(c) Vehicle registration insignia.

(1) On receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue vehicle registration insignia to be displayed on the vehicle for which the registration was issued for the current registration period.

(A) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield within six inches of the vehicle inspection sticker in a manner that will not obstruct the vision of the driver.

(B) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and issued by the department shall be

attached to the rear license plate, except that registration receipts, retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer plates.

(C) If the vehicle is registered as a former military vehicle as prescribed by Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab, or license plate.

(i) Former military vehicle registration numbers shall be displayed on a prominent location on the vehicle in numbers and letters of at least two inches in height.

(ii) To the extent possible, the location and design of the former military vehicle registration number must conform to the vehicle's original military registration number.

(2) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

(A) must display two license plates, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in a horizontal position of not less than 12 inches from the ground, measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible; or

(B) must display one plate that is securely fastened at or as close as practical to the exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

(3) Each vehicle registered under this subchapter must display license plates:

(A) assigned by the department for the period; or

(B) validated by a registration insignia issued by the department that establishes that the vehicle is registered for the period.

(4) The department will cancel or not issue any license plate containing an alpha-numeric pattern that meets one or more of the following criteria.

(A) The alpha-numeric pattern conflicts with the department's current or proposed regular license plate numbering system.

(B) The executive director finds that the alpha-numeric pattern may be considered objectionable or misleading, including that the pattern may be viewed as, directly or indirectly:

(i) indecent (defined as including a reference to a sex act, an excretory function or material, or sexual body parts);

(ii) a vulgarity (defined as curse words);

(iii) derogatory (defined as an expression of hate directed toward people or groups that is demeaning to people or groups, or associated with an organization that advocates such expressions);

(iv) a reference to illegal activities or substances, or implied threats of harm; or

(v) a misrepresentation of law enforcement or other governmental entities and their titles.

(C) The alpha-numeric pattern is currently issued to another owner.

(5) The provisions of paragraph (1) of this subsection do not apply to vehicles registered with annual license plates issued by the department.

(d) Vehicle registration renewal.

(1) To renew vehicle registration, a vehicle owner must apply, prior to the expiration of the vehicle's registration, to the tax assessor-collector of the county in which the owner resides.

(2) The department will send a license plate renewal notice, indicating the proper registration fee and the month and year the registration expires, to each vehicle owner prior to the expiration of the vehicle's registration.

(3) The license plate renewal notice should be returned by the vehicle owner to the appropriate county tax assessor-collector or to the tax assessor-collector's deputy, either in person or by mail, unless the vehicle owner renews via the Internet. The renewal notice must be accompanied by the following documents and fees:

(A) registration renewal fees prescribed by law;

(B) any local fees or other fees prescribed by law and collected in conjunction with registration renewal; and

(C) evidence of financial responsibility required by Transportation Code, §502.046, unless otherwise exempted by law.

(4) If a renewal notice is lost, destroyed, or not received by the vehicle owner, the vehicle may be registered if the owner presents personal identification acceptable to the county tax assessor-collector. Failure to receive the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

(5) Renewal of expired vehicle registrations.

(A) In accordance with Transportation Code, §502.407, a vehicle with an expired registration may not be operated on the highways of the state after the fifth working day after the date a vehicle registration expires.

(B) If the owner has been arrested or cited for operating the vehicle without valid registration then a 20 percent delinquency penalty is due when registration is renewed, the full annual fee will be collected, and the vehicle registration expiration month will remain the same.

(C) If the county tax assessor-collector or the department determines that a registrant has a valid reason for being delinquent in registration, the vehicle owner will be required to pay for twelve months' registration. Renewal will establish a new registration expiration month that will end on the last day of the eleventh month following the month of registration renewal.

(D) If the county tax assessor-collector or the department determines that a registrant does not have a valid reason for being delinquent in registration, the full annual fee will be collected and the vehicle registration expiration month will remain the same.

(E) If a vehicle is registered in accordance with Transportation Code, §§502.255, 502.431, 502.435, 502.454, 504.315, 504.401, 504.405, 504.505, or 504.515 and if the vehicle's registration is renewed more than one month after expiration of the previous registration, the registration fee will be prorated.

(F) Evidence of a valid reason may include receipts, passport dates, and military orders. Valid reasons may include:

(i) extensive repairs on the vehicle;

(ii) the person was out of the country;

(iii) the vehicle is used only for seasonal use;

(iv) military orders;

(v) storage of the vehicle;

(vi) a medical condition such as an extended hospital stay; and

(vii) any other reason submitted with evidence that the county tax assessor-collector or the department determines is valid.

(6) Refusal to renew registration for delinquent child support.

(A) Placement of denial flag. On receipt of a notice issued under Family Code, Chapter 232 for the suspension or nonrenewal of a motor vehicle registration, the department will place a registration denial flag on the motor vehicle record of the child support obligor as reported by the child support agency.

(B) Refusal to renew registration. While a motor vehicle record is flagged, the county tax-assessor collector shall refuse to renew the registration of the associated motor vehicle.

(C) Removal of denial flag. The department will remove the registration denial flag on receipt of a removal notice issued by a child support agency under Family Code, Chapter 232.

(7) License plate reissuance program. The county tax assessor-collectors shall issue new multi-year license plates at no additional charge at the time of registration renewal provided the current plates are over seven years old from the date of issuance, including permanent trailer plates.

(e) Replacement of license plates, symbols, tabs, and other devices.

(1) When a license plate, symbol, tab, or other registration device is lost, stolen, or mutilated, a replacement may be obtained from any county tax assessor-collector upon:

(A) the payment of the statutory replacement fee prescribed by Transportation Code, §502.060 or §504.007; and

(B) the provision of a signed statement, on a form prescribed by the department, that states:

(i) the license plate, symbol, tab, or other registration device furnished for the described vehicle has been lost, stolen, or mutilated, and if recovered, will not be used on any other vehicle; and

(ii) the replaced license plate, symbol, tab, or other device will only be used on the vehicle to which it was issued.

(2) If the owner remains in possession of any part of the lost, stolen, or mutilated license plate, symbol, tab, or other registration device, that remaining part must be removed and surrendered to the department on issuance of the replacement and request by the county tax assessor-collector.

(f) Farm vehicles. An applicant must provide a properly completed application for farm plates. The application must be accompanied by a copy of the applicant's Texas Agriculture or Timber Registration card issued by the Texas Comptroller of Public Accounts. The card must:

(1) be legible;

(2) be current;

(3) contain a registration number; and

(4) be in the name of the person or dba in which the vehicle will be registered issued pursuant to Transportation Code, §502.146.

(g) Out-of-state vehicles. A vehicle brought to Texas from out-of-state must be registered within 30 days of the date on which the owner establishes residence or secures gainful employment, except

as provided by Transportation Code, §502.090. Accompanying a completed application, an applicant must provide:

(1) an application for title as required by Transportation Code, Chapter 501, if the vehicle to be registered has not been previously titled in this state; and

(2) any other documents or fees required by law.

(h) The owner of an electric personal assistive mobility device, as defined by Transportation Code, §551.201, is not required to register it. The device may only be operated on a residential street, roadway, or public highway in accordance with Transportation Code, §551.202.

(i) A neighborhood electric vehicle:

(1) is required to be titled in accordance with Transportation Code, §502.042 in order to be registered for operation on public roads;

(2) may be operated on a residential street, roadway, or public highway in accordance with Transportation Code, §551.303;

(3) must comply with the evidence of financial responsibility requirements established in Transportation Code, §502.046;

(4) must display a "slow-moving-vehicle emblem" if it meets the definition of a "slow-moving vehicle" as described in Transportation Code, §547.001; and

(5) is subject to all traffic and other laws applicable to motor vehicles.

(j) Enforcement of traffic warrant. A municipality may enter into a contract with the department under Government Code, Chapter 791 to indicate in the state's motor vehicle records that the owner of the vehicle is a person for whom a warrant of arrest is outstanding for failure to appear or who has failed to pay a fine on a complaint involving a violation of a traffic law. In accordance with Transportation Code, §702.003, a county tax assessor-collector may refuse to register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle. A municipality is responsible for obtaining the agreement of the county in which the municipality is located to refuse to register motor vehicles for failure to pay civil penalties imposed by the municipality.

(k) Refusal to register due to traffic signal violation. A local authority, as defined in Transportation Code, §541.002, that operates a traffic signal enforcement program authorized under Transportation Code, Chapter 707 may enter into a contract with the department under Government Code, Chapter 791 to indicate in the state's motor vehicle records that the owner of a motor vehicle has failed to pay the civil penalty for a violation of the local authority's traffic signal enforcement system involving that motor vehicle. In accordance with Transportation Code, §707.017, a county tax assessor-collector may refuse to register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle. The local authority is responsible for obtaining the agreement of the county in which the local authority is located to refuse to register motor vehicles for failure to pay civil penalties imposed by the local authority.

(l) Refusal to register vehicle in certain counties. A county may enter into a contract with the department under Government Code, Chapter 791 to indicate in the state's motor vehicle records that the owner of the vehicle has failed to pay a fine, fee, or tax that is past due. In accordance with Transportation Code, §502.010, a county tax assessor-collector may refuse to register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle.

(m) Record notation. A contract between the department and a county, municipality, or local authority entered into under Transporta-

tion Code, §502.010, Transportation Code, §702.003, or Transportation Code, §707.017 will contain the terms set out in this subsection.

(1) To place or remove a registration denial flag on a vehicle record, the contracting entity must submit a magnetic tape or other acceptable submission medium as determined by the department in a format prescribed by the department.

(2) The information submitted by the contracting entity will include, at a minimum, the vehicle identification number and the license plate number of the affected vehicle.

(3) If the contracting entity data submission contains bad or corrupted data, the submission medium will be returned to the contracting entity with no further action by the department.

(4) The magnetic tape or other submission medium must be submitted to the department from a single source within the contracting entity.

(5) The submission of a magnetic tape or other submission medium to the department by a contracting entity constitutes a certification by that entity that it has complied with all applicable laws.

(n) Fees.

(1) The department and the county will charge required fees, and only those fees provided by statute or rule.

(2) A \$2 fee for a duplicate registration receipt will be charged if a receipt is printed for the customer.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301233

Margaret A. Wilson

General Counsel

Texas Department of Motor Vehicles

Effective date: April 14, 2013

Proposal publication date: November 23, 2012

For further information, please call: (512) 467-3853



43 TAC §217.34

The Texas Department of Motor Vehicles (department) adopts the repeal of §217.34, concerning Registration Fee Credit: Title Reinstatement, without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10180).

EXPLANATION OF ADOPTED REPEAL

The repeal is necessary because the rule no longer serves a business purpose.

This section was adopted effective January 1, 1976. Since that time, it has moved within the Administrative Code, but the verbiage has remained exactly the same. The department's business processes have changed since 1976. The department issues registration credit vouchers for vehicles that have been destroyed to the extent that they cannot be operated on the highway and the registration fee for the remainder of the registration year is more than \$15.

This section provides that if the voucher has been used, the title may be reinstated and the owner repays the registration fees

that were used. An example is that Vehicle One is destroyed with \$24 left on its registration. The owner used the \$24 as part of the vehicle registration on Vehicle Two. Vehicle One is then placed back on the roadway. The \$24 must be repaid at the time of registering Vehicle One, and the remaining registration for Vehicle One must also be paid.

The purpose of registration fees is for operation of a vehicle on the roadway. As long as all registration fees are paid for the period of time that both vehicles are on the roadway, then the purpose of the statute has been served. A simpler system is to not require repayment, just require the owner to pay full registration. For example, Vehicle One is destroyed and has \$24 left on the registration. The \$24 can be used to register Vehicle Two. If Vehicle One is rebuilt and placed on the roadway, it may be registered at the full registration fee. Registration fee credit should not be repaid. Approximately 100 vehicle owners request credit fee vouchers each year. The cost is the same for the department and the owner.

COMMENTS

No comments on the proposed repeal were received.

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §1002.001, which provides the Board of the Texas Department of Motor Vehicles with the authority to establish rules for the conduct of the work of the department; more specifically, Transportation Code, §502.0021, which authorizes the department to establish rules to administer Chapter 502 (regarding Registration of Motor Vehicles).

CROSS REFERENCE TO STATUTE

Transportation Code, §502.194.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301234

Margaret A. Wilson

General Counsel

Texas Department of Motor Vehicles

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Proposal publication date: December 28, 2012

For further information, please call: (512) 467-3853



CHAPTER 218. MOTOR CARRIERS

SUBCHAPTER E. CONSUMER PROTECTION

The Texas Department of Motor Vehicles (department) adopts the repeal of §218.63, Annual Report, and the amendment to §218.50, Purpose and Scope, relating to Motor Carriers, without changes to the proposed text as published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9347). The amended rule will not be republished.

EXPLANATION OF ADOPTED REPEAL AND AMENDMENT

The repeal and amendment are necessary because §218.63 no longer serves a business purpose.

Section 218.63 requires every household goods carrier to file its annual operating report (report) with the department. This requirement was intended to provide shippers with information regarding the household goods carrier's claim history to help the shippers decide whether or not to use certain carriers to transport the shippers' goods.

Transportation Code, §643.153 requires the department to adopt rules to protect a consumer using the service of a motor carrier who is transporting household goods for compensation; however, there is no statutory requirement for this report. The household goods carriers submit the required information to the department; however, the department does not verify the information contained in the report. After the department receives the report, the department takes no further action on the report. In addition, the department cannot recall receiving an open records request for the report since the current version of §218.63 became effective. Further, in this age of the internet, there are more current methods for shippers to obtain information by which to evaluate household goods carriers. The report is unnecessary because it does not add value to shippers or the department.

The department currently provides the public with online access to the Motor Carrier Complaint Management System (CMS), through which the public can file complaints involving motor carriers, check the status of a complaint, and view the complaint history of specific motor carriers, including household goods carriers. In addition, §218.55, Information for Shippers, requires a household goods carrier operating in intrastate commerce in Texas to provide to the shipper a copy of the department's information sheet entitled, *Your Rights and Responsibilities When You Move in Texas*. The information sheet informs shippers that they can access a searchable database to verify whether a mover is properly registered; they can contact the department's Enforcement Division to obtain information regarding a mover's complaint history; and they may contact the Better Business Bureau for additional information regarding a household goods carrier. This information sheet is available from the department, and it is available on the department's website.

In addition to the report, the department maintains all shippers' requests to the department for mediation of all shippers' claims against the household goods carrier under §218.62, Mediation by the Department.

The department does not use the report. The department's inspectors have access to the relevant records of the household goods carriers, so the Department's Enforcement Division can obtain the information it needs to investigate alleged violations of Chapter 643, Transportation Code, and any department rule or order adopted under Chapter 643. Household goods carriers are required to maintain records as required by §218.32, Motor Carrier Records, and §218.61, Claims. The department may inspect these records, which include claims records and moving services contracts.

The adopted amendment to §218.50 renumbers the rule reference to reflect the repeal of §218.63.

COMMENTS

No comments on the proposed repeal and amendment were received.

43 TAC §218.50

STATUTORY AUTHORITY

The amendment is adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties for the Texas Department of Motor Vehicles under the Transportation Code; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643 regarding motor carrier registration; and more specifically, Transportation Code, §643.153, which authorizes the department to adopt rules governing consumer protection relating to household goods carriers.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 643.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301235

Margaret A. Wilson

General Counsel

Texas Department of Motor Vehicles

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Proposal publication date: November 23, 2012

For further information, please call: (512) 467-3853



43 TAC §218.63

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties for the Texas Department of Motor Vehicles under the Transportation Code; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643 regarding motor carrier registration; and more specifically, Transportation Code, §643.153, which authorizes the department to adopt rules governing consumer protection relating to household goods carriers.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 643.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 25, 2013.

TRD-201301236

Margaret A. Wilson

General Counsel

Texas Department of Motor Vehicles

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For further information, please call: (512) 467-3853



REVIEW OF AGENCY RULES

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas State Soil and Water Conservation Board

Title 31, Part 17

The Texas State Soil and Water Conservation Board (State Board) files this notice of intent to review 31 TAC Chapter 517, Subchapter A, §§517.1 - 517.12, concerning Conservation Assistance, in accordance with the Texas Government Code, §2001.039.

As required by §2001.039 of the Texas Government Code, the State Board will accept comments and make a final assessment regarding whether the reason for adopting these rules continues to exist. The comment period will last 30 days beginning with the publication of this notice of intent to review.

Comments or questions regarding this rule review may be submitted to Rex Isom, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503; by e-mail to risom@tss-wcb.texas.gov; or by facsimile to (254) 773-3311.

TRD-201301164

Mel Davis

Special Projects Coordinator

Texas State Soil and Water Conservation Board

Filed: March 20, 2013



The Texas State Soil and Water Conservation Board (State Board) files this notice of intent to review 31 TAC Chapter 519, Subchapter A, §§519.1 - 519.12, concerning Technical Assistance Program, in accordance with the Texas Government Code, §2001.039.

As required by §2001.039 of the Texas Government Code, the State Board will accept comments and make a final assessment regarding whether the reason for adopting these rules continues to exist. The comment period will last 30 days beginning with the publication of this notice of intent to review.

Comments or questions regarding this rule review may be submitted to Rex Isom, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503; by e-mail to risom@tss-wcb.texas.gov; or by facsimile to (254) 773-3311.

TRD-201301165

Mel Davis

Special Projects Coordinator

Texas State Soil and Water Conservation Board

Filed: March 20, 2013



This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

The Texas State Soil and Water Conservation Board (State Board) files this notice of intent to review 31 TAC Chapter 521, Subchapter A, §§521.1 - 521.13, concerning Technical Assistance Program for Soil and Water Conservation Land Improvement Measures, in accordance with the Texas Government Code, §2001.039.

As required by §2001.039 of the Texas Government Code, the State Board will accept comments and make a final assessment regarding whether the reason for adopting these rules continues to exist. The comment period will last 30 days beginning with the publication of this notice of intent to review.

Comments or questions regarding this rule review may be submitted to Rex Isom, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503; by e-mail to risom@tss-wcb.texas.gov; or by facsimile to (254) 773-3311.

TRD-201301166

Mel Davis

Special Projects Coordinator

Texas State Soil and Water Conservation Board

Filed: March 20, 2013



Adopted Rule Reviews

Texas State Soil and Water Conservation Board

Title 31, Part 17

Pursuant to the notice of proposed rule review published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9974), the Texas State Soil and Water Conservation Board (State Board) has reviewed and considered for readoption, revision or repeal 31 TAC Chapter 518, Subchapter B, §518.5, concerning Historically Underutilized Business Program, in accordance with Texas Government Code, §2001.039.

The State Board considered, among other things, whether the reason for adoption of this rule continues to exist.

As a result of the review, the State Board determined that the rule is still necessary and readopts the rule since it governs the State Board's program for conducting business with historically underutilized businesses. The State Board proposed amendments to 31 TAC §518.5 in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9866). Those amendments are adopted elsewhere in this issue of the *Texas Register*.

No public comments were received on the proposed rule review.

This completes the State Board's review of 31 TAC Chapter 518, Subchapter B, §518.5.

TRD-201301163

Mel Davis

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Texas State Soil and Water Conservation Board

Filed: March 20, 2013



IN

ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

Draft 2013 Texas Foundations Fund Application Materials
Available for Public Comment

The 2013 Texas Foundations Fund Draft Guidelines and Application Requirements are now available for public comment. A copy of the 2013 Texas Foundations Fund Draft Guidelines and Application Requirements may be found on the Corporation's website at www.tsahc.org. The public comment period is Friday, March 22, 2013 through Friday, April 19, 2013.

Please submit public comment via email to Katie Howard at khoward@tsahc.org with the subject line "2013 Texas Foundations Fund Public Comment" or via mail to Katie Howard, Texas State Affordable Housing Corporation, 2200 E. Martin Luther King, Jr. Boulevard, Austin, Texas 78702.

TRD-201301257

David Long

President

Texas State Affordable Housing Corporation

Filed: March 25, 2013



Texas Department of Agriculture

Request for Proposals: 2013 ICD-10 Pre-Implementation
Grant

The Texas Department of Agriculture (TDA) is accepting proposals for the ICD-10 Pre-Implementation Grant (Grant). This critical International Coding and Diagnostic Version 10 (ICD-10) update is required by 2014 and will enhance both patient safety and health facility financial sustainability; however, the update requires major investments in workforce training and technology. The Grant is designed to promote readiness to comply with ICD-10 training and implementation requirements in facilities located in Texas counties with fewer than 50,000 residents. Proposals must be received at TDA by the close of business (5:00 p.m. CST) on Monday, April 29, 2013.

Funding Parameters. Contingent upon available funds, eligible projects include ICD-10 readiness assessments and ICD-10 pre-implementation training. The size of the awards will be determined by the number of qualified applicants and availability of funds.

Selected recipients will be required to sign a contract stating their intent to utilize funds in accordance with grant requirements, including the requirement to provide documentation of work done under this grant.

Eligibility. Hospitals located in Texas counties with fewer than 50,000 in population.

Submitting an Application. Applications are currently being accepted and must be submitted on the form provided by TDA by the submission deadline. Application and guidance documents are available on TDA's website at: <http://www.texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/StateOfficeofRuralHealth/RuralHealthGrants.aspx> or upon request from TDA by calling (512) 936-6722.

Applications must be complete and have all required documentation to be considered. TDA reserves the right to request additional information or documentation to determine eligibility. Applications must be signed by the applicant.

Applications may be submitted by mail or email or hand-delivered to TDA headquarters in Austin, Texas. If mailing the application, make sure it is properly marked.

Deadline for Submission of Responses. A complete application with signature must be received at TDA by the close of business (5:00 p.m. CST) on Monday, April 29, 2013. See mailing information below.

Complete applications with signature must be submitted to:

Mailing Address: Texas Department of Agriculture, State Office of Rural Health, P.O. Box 12847, Austin, Texas 78711.

Or (for overnight delivery):

Street Address: Texas Department of Agriculture, State Office of Rural Health, 1700 N. Congress, 11th Floor, Austin, Texas 78701.

Or (for scanned and emailed applications): Grants@TexasAgriculture.gov

Assistance and Questions. For questions regarding submission of the proposal and TDA documentation requirements, please contact Ms. Amanda Maedgen, Rural Health Specialist, at (512) 936-6722 or by email at amanda.maedgen@TexasAgriculture.gov.

Texas Public Information Act. Once submitted, all applications shall be deemed to be the property of the TDA and are subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

TRD-201301248

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Filed: March 25, 2013



Office of the Attorney General

Texas Water Code Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Water Code. Before the State may settle a judicial enforcement action under the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Water Code.

Case Title and Court: *State of Texas v. Jesus L. Huereca*, Cause No. D-1-GV-12000862; in the 98th Judicial District Court, Travis County, Texas.

Nature of Defendant's Operations: Defendant owns a former gasoline station under which two out of service underground petroleum storage tanks were buried in San Elizario, El Paso County, Texas. The State initiated this suit to enforce a TCEQ administrative order and TCEQ rules regarding the upgrade and permanent removal from service of the underground petroleum storage tanks at the defendant's property. The Defendant has permanently removed the underground storage tanks in accordance with the rules and to the satisfaction of the TCEQ. The parties propose an Agreed Final Judgment, which assesses civil penalties against the Defendant for his violation of the TCEQ order and rules. The Defendant agrees to this judgment.

Proposed Agreed Final Judgment: The parties propose an Agreed Final Judgment, which assesses civil penalties against the Defendant in the amount of \$21,000, and orders the Defendant to make regular monthly payments thereon. The Agreed Final Judgment also includes an award of the State's reasonable attorney's fees incurred in prosecuting this case in the amount of \$2,400.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for

copies of the judgment, and written comments on the proposed settlement, should be directed to Heather D. Hunziker, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-201301247

Katherine Cary

General Counsel

Office of the Attorney General

Filed: March 25, 2013

◆ ◆ ◆
Comptroller of Public Accounts

Local Sales Tax Rate Change Notice Effective April 1, 2013

A one percent local sales and use tax will become effective April 1, 2013 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Ivanhoe (Tyler Co)	2229041	.017500	.080000

***Note:** Prior to this election the City of Ivanhoe initially adopted a ¼ percent sales and use tax for Municipal Street Maintenance and Repair, effective April 1, 2012. They are now adopting, in addition, a regular one percent new city sales tax.

An additional 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective April 1, 2013 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Freer (Duval Co)	2066010	.020000	.082500

The 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be abolished, effective March 31, 2013, in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Krum (Denton Co)	2061140	.015000	.077500
Nevada (Collin Co)	2043250	.015000	.077500
Yorktown (DeWitt Co)	2062014	.012500	.075000

An additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code Type B Corporations (4B) will become effective April 1, 2013 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Baird (Callahan Co)	2030022	.020000	.082500

An additional one percent city sales and use tax for improving and promoting economic and industrial development that includes an additional 1/2 percent as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A), and an additional 1/2 percent as permitted under Chapter 505 of the Texas Local Government Code Type B Corporations (4B) will become effective April 1, 2013 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Lyford (Willacy Co)	2245023	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) will be abolished effective March 31, 2013. The adoption of an additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code Type B Corporations (4B) will become effective April 1, 2013 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Raymondville (Willacy Co)	2245014	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) will be reduced to 1/4 percent and the additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will be increased to 1/2 percent effective April 1, 2013 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Trophy Club (Denton Co)	2061266	.020000	.082500
Trophy Club (Tarrant Co)	2061266	.020000	.082500

An additional 1/8 percent city sales and use tax for a Municipal Development Corporation as permitted under the provisions of Chapter 379A of the Local Government Code will become effective April 1, 2013 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
San Antonio (Bexar Co)	2015012	.020000	.082500

A one percent special purpose district sales and use tax will become effective April 1, 2013 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Bridgeland Management District	5101865	.010000	SEE NOTE 1

NOTE 1: The Bridgeland Management District is located in the western portion of Harris County. The district is located entirely within the Houston MTA, which has a transit sales and use tax, but the district does not include any area within the city of Houston. The unincorporated area of Harris County in ZIP Code 77433 is partially located within the Bridgeland Management District. Contact the district representative at (713) 623-4531 for additional boundary information.

TRD-201301286
Ashley Harden
General Counsel
Comptroller of Public Accounts
Filed: March 27, 2013

Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: March 26, 2013

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/08/13 - 04/14/13 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/08/13 - 04/14/13 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-201301259

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is May 6, 2013. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the re-

quirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on May 6, 2013. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: ARAMCO ASSOCIATED COMPANY; DOCKET NUMBER: 2012-2551-PST-E; IDENTIFIER: RN101914042; LOCATION: Houston, Harris County; TYPE OF FACILITY: emergency generator; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tank (UST); and 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; PENALTY: \$8,574; ENFORCEMENT COORDINATOR: Sarah Davis, (512) 239-1653; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Bayway Homes, Incorporated; DOCKET NUMBER: 2013-0425-WQ-E; IDENTIFIER: RN106581531; LOCATION: Dickinson, Galveston County; TYPE OF FACILITY: residential construction; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Construction General Permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: City of Cushing; DOCKET NUMBER: 2012-0658-MWD-E; IDENTIFIER: RN101917151; LOCATION: Cushing, Nacogdoches County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010437001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, 30 TAC §305.125(1), and TWC, §26.121(a), by failing to comply with permitted effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number WQ0010437001, Sludge Provisions, by failing to submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011; PENALTY: \$159,050; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5886; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(4) COMPANY: City of Daingerfield; DOCKET NUMBER: 2013-0194-MWD-E; IDENTIFIER: RN102177953; LOCATION: Daingerfield, Morris County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010499001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with the permitted effluent limitations; PENALTY: \$3,350; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: City of Thornton; DOCKET NUMBER: 2012-0705-MWD-E; IDENTIFIER: RN102844461; LOCATION: Thornton, Limestone County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010824001, Permit Condition Number 2.d. and Effluent Limitation and Monitoring Requirements Number 4, TWC, §26.121(a)(1), and 30 TAC §305.125(1) and (4), by failing to prevent a discharge of waste into or adjacent to water in the state; TPDES Permit Number WQ0010824001, Operational Requirements Number 1, and 30 TAC §305.125(5), by failing to ensure that all systems of collection, treatment, and disposal are properly operated and maintained; TPDES Permit Number WQ0010824001, Effluent Limitations and Monitoring Requirements Number 1, 30 TAC §305.125(1), and TWC, §26.121(a), by failing to comply with permitted effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number WQ0010824001, Sludge Provisions, by failing to submit the annual sludge report for the monitoring period ending July 31, 2011; PENALTY: \$72,012; Supplemental Environmental Project offset amount of \$72,012 applied to Wastewater Treatment Plant Improvements; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5886; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: City of West University Place; DOCKET NUMBER: 2013-0351-PST-E; IDENTIFIER: RN103141743; LOCATION: West University Place, Harris County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7) COMPANY: COOK CHILDREN'S MEDICAL CENTER; DOCKET NUMBER: 2013-0377-PST-E; IDENTIFIER: RN103078168; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: hospital; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tank; PENALTY: \$875; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: EKTA FOOD, INCORPORATED dba Step In; DOCKET NUMBER: 2013-0318-PST-E; IDENTIFIER: RN102365392; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(9) COMPANY: GJ & H Investment Company, Incorporated; DOCKET NUMBER: 2013-0341-PST-E; IDENTIFIER: RN101381648; LOCATION: Arlington, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(10) COMPANY: H & S CONSTRUCTORS, INCORPORATED; DOCKET NUMBER: 2012-2703-MLM-E; IDENTIFIER: RN106543762; LOCATION: Asherton, Dimmit County; TYPE OF FACILITY: heavy construction; RULE VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code (THSC), §382.0518(a) and §382.085(b), by failing to obtain authorization to construct and operate a source of air emissions; 30 TAC §334.127(c) and TWC, §26.346, by failing to submit an aboveground storage tank registration within 30 days from the date petroleum product was first placed into the tank; 30 TAC §328.60(a), by failing to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers; and 30 TAC §328.25(a) and THSC, §371.105, by failing to demonstrate transfer of custody of used oil filters from the transporter to the registered storage facility or processor using properly completed bills of lading; PENALTY: \$11,500; ENFORCEMENT COORDINATOR: Andrea Park, (713) 422-8970; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(11) COMPANY: HAYS CITY CORPORATION dba San Antonio Bulk Plant; DOCKET NUMBER: 2013-0013-PST-E; IDENTIFIER: RN105930648; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: wholesale facility with three underground storage tanks (USTs); RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Sarah Davis, (512) 239-1653; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(12) COMPANY: MCCREERY AVIATION COMPANY, INCORPORATED dba McCreery Aviation; DOCKET NUMBER: 2013-0319-PST-E; IDENTIFIER: RN101682144; LOCATION: McAllen, Hidalgo County; TYPE OF FACILITY: aircraft refueling; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(13) COMPANY: Meyer, Jarrod L.; DOCKET NUMBER: 2013-0483-WOC-E; IDENTIFIER: RN104846183; LOCATION: Tyler, Smith County; TYPE OF FACILITY: individual; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Heather Podlipny, (512) 239-2603; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(14) COMPANY: PITTSBURG CORNER EXPRESS LLC; DOCKET NUMBER: 2012-2647-PST-E; IDENTIFIER: RN102365897; LOCATION: Pittsburg, Camp County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(15) COMPANY: Ricky Shipp et al dba Holly Mart Chevron; DOCKET NUMBER: 2013-0340-PST-E; IDENTIFIER: RN101862308; LOCATION: Hawkins, Wood County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$5,250; ENFORCEMENT COOR-

DINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(16) COMPANY: Robert Huynh dba Sunmart 442; DOCKET NUMBER: 2013-0320-PST-E; IDENTIFIER: RN101867679; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(17) COMPANY: TA OPERATING LLC dba Petro Stopping Center 301; DOCKET NUMBER: 2013-0381-PST-E; IDENTIFIER: RN100820570; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(18) COMPANY: TARK-CEP LLC dba Millers Cove Grocery; DOCKET NUMBER: 2012-2322-PST-E; IDENTIFIER: RN105016620; LOCATION: Millers Cove, Titus County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the piping associated with the USTs; and 30 TAC §334.10(b), by failing to maintain UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$4,631; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(19) COMPANY: TEMPE WATER SUPPLY CORPORATION; DOCKET NUMBER: 2012-2575-PWS-E; IDENTIFIER: RN101456762; LOCATION: Livingston, Polk County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.42(l), by failing to maintain thorough and up-to-date plant operations manuals for operator review and reference; 30 TAC §290.41(c)(3)(O), by failing to provide an intruder-resistant fence to protect the facility's well sites; 30 TAC §290.42(e)(3)(A), by failing to maintain disinfection equipment which has a capacity of at least 50% greater than the highest expected dosage to be applied at any time; and 30 TAC §290.39(j), Texas Health and Safety Code, §341.0351, and TCEQ AO Docket Number 2010-1840-PWS-E, Ordering Provision Number 2.a.i., by failing to notify the executive director prior to making any significant change to the facility's production, treatment, storage, pressure maintenance, or distribution system; PENALTY: \$842; ENFORCEMENT COORDINATOR: Katy Schumann, (512) 239-2602; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(20) COMPANY: Texas State Aquarium Association; DOCKET NUMBER: 2013-0076-PST-E; IDENTIFIER: RN101858876; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: aquarium with an associated gasoline dispensing facility; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5886; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(21) COMPANY: Tx Xpress LLC dba Texas Express; DOCKET NUMBER: 2013-0062-PST-E; IDENTIFIER: RN102429198; LOCATION: Abilene, Taylor County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once a month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5886; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(22) COMPANY: UNLIMITED VALUE, INCORPORATED; DOCKET NUMBER: 2013-0352-PST-E; IDENTIFIER: RN101781656; LOCATION: Crosby, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: VAKIL & BROTHERS, INCORPORATED dba Express Lane 25; DOCKET NUMBER: 2012-2533-PST-E; IDENTIFIER: RN101884260; LOCATION: La Porte, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$7,875; ENFORCEMENT COORDINATOR: Heather Brister, (254) 761-3034; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(24) COMPANY: Winkle Oil Company, Incorporated; DOCKET NUMBER: 2013-0168-PST-E; IDENTIFIER: RN101782993; LOCATION: Winnsboro, Wood County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-201301258

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 26, 2013



Enforcement Orders

An agreed order was entered regarding Kiewit Texas Construction L.P., Docket No. 2011-0399-WR-E on March 5, 2013 assessing \$615 in administrative penalties with \$123 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Patriot Resources, Inc., Docket No. 2011-0407-AIR-E on March 5, 2013 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lone Star Distributors, Inc. dba Robles Country Mart, Docket No. 2011-2105-PST-E on March 5, 2013 assessing \$1,125 in administrative penalties with \$225 deferred.

Information concerning any aspect of this order may be obtained by contacting Kimberly Morales, Enforcement Coordinator at (713) 422-8938, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Aero Components, Inc., Docket No. 2012-0122-AIR-E on March 5, 2013 assessing \$6,008 in administrative penalties with \$1,201 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding St. Andrew Lutheran Church, Docket No. 2012-0154-EAQ-E on March 5, 2013 assessing \$7,250 in administrative penalties with \$3,650 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lawbella Gasoline, Inc. dba Dry Creek of Bridgeport, Docket No. 2012-0213-PST-E on March 5, 2013 assessing \$5,138 in administrative penalties with \$1,027 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Melissa Lee Carpenter and Lynn Morren dba Chaplins Mobile Home Park, Docket No. 2012-0523-PWS-E on March 5, 2013 assessing \$2,035 in administrative penalties with \$406 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HELFMAN ENTERPRISES, INC. dba River Oaks Chrysler Jeep Dodge Ram, Docket No. 2012-0827-PST-E on March 5, 2013 assessing \$4,355 in administrative penalties with \$871 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding YASH HOSPITALITY, INC. dba Express Food Mart, Docket No. 2012-0928-PST-E on March 5, 2013 assessing \$2,375 in administrative penalties with \$475 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254)

761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Taimoor Enterprises Inc dba Kwik Stop 1, Docket No. 2012-0965-PST-E on March 5, 2013 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hub City Convenience Stores, Inc. dba Fast Stop 18, Docket No. 2012-1016-PST-E on March 5, 2013 assessing \$4,858 in administrative penalties with \$971 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Richard Lambert and Chris Lambert dba Lambert's Ready Mix, Docket No. 2012-1022-AIR-E on March 5, 2013 assessing \$3,000 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Effective Environmental, Inc., Docket No. 2012-1086-IHW-E on March 5, 2013 assessing \$3,450 in administrative penalties with \$690 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (713) 767-3682, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Khawar & Sons, Inc. dba Zeeshon C Store, Docket No. 2012-1089-PST-E on March 5, 2013 assessing \$2,634 in administrative penalties with \$526 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding J. C. DEVELOPMENT, INC., Docket No. 2012-1100-AIR-E on March 5, 2013 assessing \$1,362 in administrative penalties with \$272 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding J. T. Kennard III, George Shaw and Gail P. Shaw Docket No. 2012-1185-MSW-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (713) 422-8970, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Victor Goforth dba Goforth Enterprises-Vics Auto Repair, Docket No. 2012-1206-WQ-E on March 5, 2013 assessing \$2,750 in administrative penalties with \$550 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Wharton County, Docket No. 2012-1248-PST-E on March 5, 2013 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brian Fabre dba Fay Ben Mobile Home Park, Docket No. 2012-1295-PWS-E on March 5, 2013 assessing \$915 in administrative penalties with \$183 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marcel Meijer dba Interplan Architects, Inc., Docket No. 2012-1306-LII-E on March 5, 2013 assessing \$131 in administrative penalties with \$26 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ConocoPhillips Company, Docket No. 2012-1344-AIR-E on March 5, 2013 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ameen Enterprises LLC dba Bargain Town, Docket No. 2012-1346-PST-E on March 5, 2013 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding T.F.R. ENTERPRISES, INC., Docket No. 2012-1369-MLM-E on March 5, 2013 assessing \$5,580 in administrative penalties with \$1,116 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ROYAL K INVESTMENTS CORP. dba Highway 75 Shell, Docket No. 2012-1381-PST-E on March 5, 2013 assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Joel McAlister, Enforcement Coordinator at (512) 239-2619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shell Oil Company, Docket No. 2012-1385-AIR-E on March 5, 2013 assessing \$7,500 in administrative penalties with \$1,500 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Blue Star Materials, LLC, Docket No. 2012-1398-AIR-E on March 5, 2013 assessing \$2,940 in administrative penalties with \$588 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Phuong T. Rowlett dba B & B Food Store, Docket No. 2012-1406-PST-E on March 5, 2013 assessing \$4,257 in administrative penalties with \$851 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PENCCO, INC., Docket No. 2012-1407-AIR-E on March 5, 2013 assessing \$1,575 in administrative penalties with \$315 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Starking Inc. dba Star Mart 5, Docket No. 2012-1418-PST-E on March 5, 2013 assessing \$6,693 in administrative penalties with \$1,338 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding King Fuels, Inc. dba Stubbys 8, Docket No. 2012-1419-PST-E on March 5, 2013 assessing \$5,626 in administrative penalties with \$1,125 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AA Enterprises, Inc. dba Hanna Food Store, Docket No. 2012-1435-PST-E on March 5, 2013 assessing \$3,561 in administrative penalties with \$712 deferred.

Information concerning any aspect of this order may be obtained by contacting Joel McAlister, Enforcement Coordinator at (512) 239-2619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding M.R.D. GROUP, INC. dba Shaver Food Mart, Docket No. 2012-1440-PST-E on March 5, 2013 assessing \$4,350 in administrative penalties with \$870 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Patricia Oakley dba Gokeys General Store, Docket No. 2012-1476-PST-E on March 5, 2013 assessing \$5,711 in administrative penalties with \$1,141 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brownsville Independent School District, Docket No. 2012-1485-PST-E on March 5, 2013 assessing \$6,750 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ZAK BUSINESS INC. dba Kountry Mart, Docket No. 2012-1524-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Joel McAlister, Enforcement Coordinator at (512) 239-2619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MODAK & PARTNERS, INC. dba Js New Way, Docket No. 2012-1548-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Herbert Darling, Enforcement Coordinator at (512) 239-2570, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Stolthaven Houston, Inc., Docket No. 2012-1581-AIR-E on March 5, 2013 assessing \$6,563 in administrative penalties with \$1,312 deferred.

Information concerning any aspect of this order may be obtained by contacting Kimberly Morales, Enforcement Coordinator at (713) 422-8938, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sprint Waste Services LP, Docket No. 2012-1585-IHW-E on March 5, 2013 assessing \$3,700 in administrative penalties with \$740 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MOTIVA ENTERPRISES LLC dba Port Arthur Refinery, Docket No. 2012-1591-PWS-E on March 5, 2013 assessing \$1,490 in administrative penalties with \$298 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Noorani Sirajuddin dba The Best Choice Food Mart, Docket No. 2012-1592-PST-E on March 5, 2013 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting Sarah Davis, Enforcement Coordinator at (512) 239-1653, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MD LANCASTER CO., INC. dba Dry Clean Super Center, Docket No. 2012-1599-MLM-E on March 5, 2013 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GSF Energy, L.L.C., Docket No. 2012-1601-AIR-E on March 5, 2013 assessing \$3,000 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Pasadena, Docket No. 2012-1604-PST-E on March 5, 2013 assessing \$6,300 in administrative penalties with \$1,260 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2570, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BRAZORIA COUNTY WATER CORPORATION, Docket No. 2012-1618-PWS-E on March 5, 2013 assessing \$450 in administrative penalties with \$90 deferred.

Information concerning any aspect of this order may be obtained by contacting Remington Burklund, Enforcement Coordinator at (512) 239-2611, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LONE STAR DISTRIBUTORS, INC. dba Lone Star Food Store, Docket No. 2012-1624-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BRAZOS VALLEY SEPTIC & WATER, INC., Docket No. 2012-1643-PWS-E on March 5, 2013 assessing \$255 in administrative penalties with \$51 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Port Arthur, Docket No. 2012-1645-MWD-E on March 5, 2013 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SHAZAD INCORPORATED dba Regal Pantry, Docket No. 2012-1655-PST-E on March 5, 2013 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2570, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding S & S SONS, INC. dba Hermes Shell, Docket No. 2012-1656-PST-E on March 5, 2013 assessing \$5,625 in administrative penalties with \$1,125 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rescar Companies, Docket No. 2012-1657-AIR-E on March 5, 2013 assessing \$5,313 in administrative penalties with \$1,062 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hicks Oil & Butane Co. dba Times Market, Docket No. 2012-1668-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding 3DR LLC dba Shell Food Mart, Docket No. 2012-1680-PST-E on March 5, 2013 assessing \$5,536 in administrative penalties with \$1,107 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (713) 422-8970, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Appleby Water Supply Corporation, Docket No. 2012-1691-PWS-E on March 5, 2013 assessing \$577 in administrative penalties with \$115 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cowtown RV Park, Ltd., Docket No. 2012-1703-PWS-E on March 5, 2013 assessing \$1,763 in administrative penalties with \$351 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Raymond Louis Franz, Docket No. 2012-1704-PWS-E on March 5, 2013 assessing \$55 in administrative penalties with \$11 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TGU, LLC dba The Ground Up Houston, Docket No. 2012-1711-MSW-E on March 5, 2013 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LANXESS Corporation, Docket No. 2012-1715-AIR-E on March 5, 2013 assessing \$7,438 in administrative penalties with \$1,487 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GREEN SPRINGS WATER SUPPLY CORPORATION, Docket No. 2012-1728-PWS-E on March 5, 2013 assessing \$560 in administrative penalties with \$112 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALAN SKINNER, INC. dba Skinner Texaco, Docket No. 2012-1733-PST-E on March 5, 2013 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eagle Construction and Environmental Services, LLC, dba SWS Environmental Services Docket No. 2012-1751-WQ-E on March 5, 2013 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Remington Burklund, Enforcement Coordinator at (512) 239-2611, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Yen K. Tat dba Sun Stop Market, Docket No. 2012-1768-PST-E on March 5, 2013 assessing \$5,887 in administrative penalties with \$1,177 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Manuel Robles dba Shallowater Truck Stop, Docket No. 2012-1769-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MONROE @ WINKLER INVESTMENTS, INC. dba Mike Food Mart, Docket No. 2012-1771-PST-E on March 5, 2013 assessing \$5,100 in administrative penalties with \$1,020 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Intercontinental San Antonio Forum Limited Partnership, Docket No. 2012-1777-PST-E on March 5, 2013 assessing \$4,003 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Pure Castings Company and Lone Star Foundries, Inc., Docket No. 2012-1778-AIR-E on March 5, 2013 assessing \$938 in administrative penalties with \$187 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rolling Creek Utility District, Docket No. 2012-1792-MWD-E on March 5, 2013 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EAN Holdings, LLC dba National Car Rental, Docket No. 2012-1797-AIR-E on March 5, 2013 assessing \$1,250 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding J. D. Packaging, Inc., Docket No. 2012-1798-AIR-E on March 5, 2013 assessing \$1,312 in administrative penalties with \$262 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bapa Krupa, LLC, Docket No. 2012-1804-UTL-E on March 5, 2013 assessing \$817 in administrative penalties with \$163 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Dallas County Community College District, Docket No. 2012-1805-PST-E on March 5, 2013 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arkema Inc., Docket No. 2012-1809-AIR-E on March 5, 2013 assessing \$4,841 in administrative penalties with \$968 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DCP Midstream, LP, Docket No. 2012-1811-PWS-E on March 5, 2013 assessing \$204 in administrative penalties with \$40 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Seema Enterprises Inc. dba N P Food Mart, Docket No. 2012-1813-PST-E on March 5, 2013 assessing \$2,400 in administrative penalties with \$480 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding G-M Water Supply Corporation, Docket No. 2012-1831-PWS-E on March 5, 2013 assessing \$636 in administrative penalties with \$127 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-1482, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hunt Oil Company, Docket No. 2012-1841-AIR-E on March 5, 2013 assessing \$3,600 in administrative penalties with \$720 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Harwin Business, Inc. dba Fuel Express 8, Docket No. 2012-1866-PST-E on March 5, 2013 assessing \$5,230 in administrative penalties with \$1,046 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Dexter Monroe dba Dal High Water System, Docket No. 2012-1873-PWS-E on March 5, 2013 assessing \$252 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHAUDHRY ENTERPRISES INCORPORATED dba Bearcat Grocery, Docket No. 2012-1887-PST-E on March 5, 2013 assessing \$3,510 in administrative penalties with \$702 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2570, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Pen Hang, Inc dba James Mini Mart, Docket No. 2012-1890-PST-E on March 5, 2013 assessing \$3,504 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Devon Gas Services, L.P., Docket No. 2012-1898-AIR-E on March 5, 2013 assessing \$4,250 in administrative penalties with \$850 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALTOGA WATER SUPPLY CORPORATION, Docket No. 2012-1904-PWS-E on March 5, 2013 assessing \$52 in administrative penalties with \$10 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Donald Martinek, Docket No. 2012-1915-IHW-E on March 5, 2013 assessing \$938 in administrative penalties with \$187 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas H2o, Inc. dba Sunset Canyon Water Moore Estates, Docket No. 2012-1927-PWS-E on March 5, 2013 assessing \$472 in administrative penalties with \$94 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding B.K.S., Inc. dba Bissonnet Mobil, Docket No. 2012-1966-PST-E on March 5, 2013 assessing \$2,567 in administrative penalties with \$513 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NAMZ ENTERPRISES, INC. dba Short Stop Market, Docket No. 2012-1986-PST-E on March 5, 2013 assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TAWAKUL INVESTMENTS INC. dba Spring Time, Docket No. 2012-2010-PST-E on March 5, 2013 assessing \$5,782 in administrative penalties with \$1,156 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hazara Enterprises, Inc. dba Simmons Grocery, Docket No. 2012-2013-PST-E on March 5, 2013 assessing \$2,438 in administrative penalties with \$487 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Maxey Trailers Mfg., Inc., Docket No. 2012-2027-AIR-E on March 5, 2013 assessing \$2,188 in administrative penalties with \$437 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BENISH CORPORATION dba Sunnys Mart, Docket No. 2012-2033-PST-E on March 5, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Darleen Cornett dba Cen-Tex Muffler Shop, Docket No. 2012-2044-AIR-E on March 5, 2013 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Approach Operating LLC, Docket No. 2012-2065-AIR-E on March 5, 2013 assessing \$5,125 in administrative penalties with \$1,025 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Handy Place, Inc., Docket No. 2012-2080-PST-E on March 5, 2013 assessing \$2,813 in administrative penalties with \$562 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Wayne Koontz dba Wayne's Beer & Wine Wayne's Texaco, Docket No. 2012-2091-PST-E on March 5, 2013 assessing \$2,813 in administrative penalties with \$562 deferred.

Information concerning any aspect of this order may be obtained by contacting Theresa Stephens, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PARSONS INTERNATIONAL INC. dba Deer Park Coastal, Docket No. 2012-2097-PST-E on March 5, 2013 assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Plainview BioEnergy, LLC, Docket No. 2012-2140-PWS-E on March 5, 2013 assessing \$150 in administrative penalties with \$30 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lithia Motors Support Services, Inc. dba Lithia Chrysler Jeep Dodge of Corpus Christi, Docket No. 2012-2150-PST-E on March 5, 2013 assessing \$2,954 in administrative penalties with \$590 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512)

239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding METHODIST HOSPITALS OF DALLAS, Docket No. 2012-2169-PST-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Maggie Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Brian H Woods, Sr., Docket No. 2012-2181-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Mariam Inc, Docket No. 2012-2214-PST-E on March 5, 2013 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Sequoia Golf Woodlands LLC, Docket No. 2012-2215-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Parker County, Docket No. 2012-2216-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding United Telephone Company of Texas Inc, Docket No. 2012-2217-PST-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Timothy M. Bradberry, Docket No. 2012-2223-WOC-E on March 5, 2013 assessing \$210 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Richland College, Docket No. 2012-2245-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-

2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding WM Recycle America LLC, Docket No. 2012-2301-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Black Canyon Construction Company, Docket No. 2012-2302-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding TC Manufacturing, Docket No. 2012-2345-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding City of Atlanta, Docket No. 2012-2368-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding J. R. Headrick, Docket No. 2012-2395-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Cody W. Benge, Docket No. 2012-2396-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BABA NANAK, INC. dba Mini Mart 8, Docket No. 2012-2398-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Monika M. Plotner dba M & R Convenience Store, Docket No. 2012-2399-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-

2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BIBIJAN ENTERPRISES, INC. dba Rite Track 9, Docket No. 2012-2400-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding R R N ENTERPRISES, INC. dba R & F Food Store, Docket No. 2012-2401-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Soon S. Sun dba Sons Shell, Docket No. 2012-2409-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding SAHIL MERCHANT, INC. dba T Mart, Docket No. 2012-2419-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding David R Lehnert, Docket No. 2012-2439-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding 281 Star Retail, Inc. dba Super Stop, Docket No. 2012-2470-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Gary W. James, Docket No. 2012-2472-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Compass Development and Construction Inc, Docket No. 2012-2485-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512)

239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Ken Dietz Homes, Inc., Docket No. 2012-2486-WQ-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Mai Nguyen dba MN Grocery & Hardware, Docket No. 2012-2513-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BABAJI & COMPANY INC. dba T Food Mart, Docket No. 2012-2514-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding J&U DISTRIBUTING COMPANY, INC. dba One Stop Food Mart Valero, Docket No. 2012-2515-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding DRISCOLL CHILDREN'S HOSPITAL, Docket No. 2012-2524-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BROWN'S EXXON, INC., Docket No. 2012-2543-PST-E on March 5, 2013 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding HAZARA ENTERPRISES, INC. dba Super Kwik Food Store, Docket No. 2012-2553-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding LUCAS FOOD MART INC. dba Lucas Food Mart, Docket No. 2012-2554-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-

2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding C C DISTRIBUTORS, INC., Docket No. 2012-2643-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding City of Bellville, Docket No. 2012-2644-PST-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding CIC CONSTRUCTION, INC., Docket No. 2012-2645-PST-E on March 5, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding KENT LUBRICATION CENTERS, LTD. dba AVIS Lube 105, Docket No. 2012-2650-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding John Neudorf, Docket No. 2012-2673-WOC-E on March 5, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Baytown Enterprises, LLC dba Snappy Mart 4, Docket No. 2012-2681-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding TRI-CON, INC. dba Exxpress Mart 1, Docket No. 2012-2682-PST-E on March 5, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201301275

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 27, 2013

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Notice of Water Quality Applications

The following notices were issued on March 15, 2013 through March 22, 2013.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

PRAXAIR INC, which operates Praxair Deer Park Plant, has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001173000, which authorizes the discharge of cooling tower blowdown, boiler blowdown, treated domestic wastewater (monitored at Outfall 101), process wastewater (compressor condensate), process area washwater, and stormwater at a daily average flow not to exceed 430,000 gallons per day via Outfall 001. The facility is located at 622 Tidal Road, at the southwest corner of the intersection of Old Tidal Road and the Port Terminal Railroad, approximately 0.5 mile north of State Highway 225, north of the City of Deer Park, Harris County, Texas 77536.

CALPINE BOSQUE ENERGY CENTER LLC, which operates Bosque County Power Plant, a combined cycle electricity generation facility, has applied for the renewal of and a minor amendment to TPDES Permit No. WQ0004167000 to authorize: (a) the removal of Outfall 301, (b) the routing of the discharge authorized at Outfall 301 to Outfall 201, (c) the renaming of Outfall 401 as Outfall 301, (d) the discharge of multi-media filter backwash water and reverse osmosis reject water via Outfall 201, and (e) continuous chlorination followed by dechlorination in cooling towers. The existing permit authorizes the discharge of cooling tower blowdown, evaporative cooling system blowdown, previously monitored effluents (PME), and stormwater at a daily average flow not to exceed 5.48 million gallons per day via Outfall 001; low volume waste sources and metal cleaning wastes on an intermittent and flow variable basis via Outfall 101; and low volume waste sources on an intermittent and flow variable basis via Outfalls 201, 301, and 401. The facility is located at 557 Bosque County Road 3610, Clifton, Bosque County, Texas 76634.

HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO 70 has applied for a renewal of TPDES Permit No. WQ0010530001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 275,000 gallons per day. The facility is located at 2425 Foley Road, approximately one mile west of the intersection of Foley Road and Hannah Nash Road, approximately three miles north of the City of Crosby in Harris County, Texas 77532.

CHATEAU WOODS MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. 13700-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The facility is located 600 feet north of the intersection of Longleaf Drive and Beech Street in the Chateau Woods Subdivision in Montgomery County, Texas.

ROYAL VALLEY UTILITIES INC has applied for a renewal of TPDES Permit No. WQ0013940001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The facility is located at 725 Kings Forest Lane, Richmond, approximately 2.5 miles east-southeast of the intersection of Farm-to-Market Road 2759 and Farm-to-Market Road 762 in Fort Bend County, Texas 77469.

AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION has applied for a major amendment to TPDES Permit No. WQ0013981001 to authorize a variance to the buffer zone requirements and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 25,000 gallons per day to a daily average flow not to exceed 40,000 gallons per day. The facility is located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in the community of Avalon in Ellis County, Texas 76623.

AQUA TEXAS INC has applied for a renewal of TPDES Permit No. WQ0014243001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 225,000 gallons per day. The facility will be located 3.0 miles northeast of the intersection of State Highway 359 and State Highway 723 in Fort Bend County, Texas 77469.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, toll free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al 1-800-687-4040.

TRD-201301273

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 27, 2013

◆ ◆ ◆
Notice of Water Rights Application

Notice issued March 26, 2013.

APPLICATION NO. 12486A Golden Pass LNG Terminal LLC, P.O. Box 302, 3752 South Gulfway Drive, Sabine Pass, Texas 77655, seeks an amendment to Water Use Permit No. 12486 to authorize diversion of an additional 35 acre-feet of water per year, change the diversion point to a diversion segment on the Port Arthur Ship Channel, Neches-Trinity Coastal Basin in Jefferson County, Texas, and to authorize an increase in diversion rate. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on March 13, 2012. Additional information and fees were received on May 23, October 15, November 19, and December 17, 19, and 21, 2012. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 21, 2012. The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, requiring screens on the diversion structures. The application, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F, Austin, Texas 78753. Written public comments and requests for a public meeting should be received in the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing"; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Texas Commission on Environmental Quality (TCEQ) Office of the Chief Clerk at the address provided below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al 1-800-687-4040.

TRD-201301274

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 27, 2013



Texas Ethics Commission

List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Robbie Douglas at (512) 463-5800.

Deadline: Semiannual Report due January 15, 2013 for Candidates and Officeholders

Sergio C. Mora, Jr., 119 W. Village Blvd., Laredo, Texas 78041-2211

Deadline: Unexpended Funds Report due January 15, 2013 for Candidates and Officeholders

Robert Garza, 2116 Veterans Blvd., Ste. 5, Del Rio, Texas 78840-3042

TRD-201301161

David Reisman

Executive Director

Texas Ethics Commission

Filed: March 20, 2013



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following projects during the period of February 23, 2013 through February 28, 2013. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the General Land Office's web site. The notice was published on the web site on March 27, 2013. The public comment period for this project will close at 5:00 p.m. on April 26, 2013.

FEDERAL AGENCY ACTIONS:

Applicant: Port of Houston Authority; Location: The project site is located in the Barbours Cut Ship Channel (BBC) and Galveston Bay, in the community of Morgan's Point, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: La-Porte, Texas. Latitude: 29.683 North; Longitude -95.000 West. Project Description: The applicant proposes to amend the Department of the Army Permit Number SWG-1999-02499 to modernize and improve port operations associated with the BCC by improving the channel. Such improvements would allow upgrade of the Barbours Cut Container Terminal and berths to accommodate the larger container vessels present and vessels that the shipping industry is moving towards, as well as to comply with the new, wider safety setbacks requested by the Houston Pilots Association. Additionally, the purpose of the project is to modernize the channel in a manner that allows the Barbours Cut Container Terminal to realize the benefits of the -45 ft MLT deepening and widening of the Houston and Galveston Navigation Channels and the existing permit to deepen the existing berths. CMP Project No.: 13-1075-F1. Type of Application: U.S.A.C.E. permit application #SWG-1999-02499 is being evaluated under §10 of the Rivers and Harbors Act of 1899 and §404 of the Clean Water Act (CWA).

Applicant: Jefferson County Drainage District; Location: The project site is located in wetlands adjacent to an unnamed tributary of Hillebrandt Bayou in Beaumont, Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Beaumont West, Texas. Latitude: 30.046 North; Longitude -94.131 West. Project Description: The applicant proposes to excavate and discharge fill material into 1.3 acres of forested wetlands adjacent to an unnamed tributary to construct a 24.6 acre floodwater detention pond that will provide detention capacity and flooding mitigation for a 142-acre benefit area as defined by FEMA. The detention pond will also have a pilot channel excavated to drain the pond dry between floods events and a concrete spillway from existing gutters of 11th Street into the detention pond. CMP Project No.: 13-1077-F1. Type of Application: U.S.A.C.E. permit application #SWG-2011-00653 is being evaluated under §404 of the Clean Water Act (CWA).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451 - 1464), as amended, interested parties are invited to submit comments on whether a proposed action or activity is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Land Commissioner for review.

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection may be obtained from Sheri Land, Director, P.O. Box 12873, Austin, Texas 78711-2873, or via email at federal.consistency@glo.texas.gov. Comments should be sent to Ms. Land at the above address or by email.

TRD-201301277

Larry L. Laine

Chief Clerk/Deputy Land Commissioner

General Land Office

Filed: March 27, 2013



Notice of Violation

ATTENTION - OWNER AND/OR ANY PERSON RESPONSIBLE FOR PLACEMENT OF THIS STRUCTURE:

YOU ARE HEREBY GIVEN NOTICE, pursuant to the provisions of §51.3021 of the Texas Natural Resources Code ("TNRC"), that you are in violation of §51.302 of the TNRC because you do not possess a proper easement, lease, permit, or other required instrument for the hereby placard-noticed facility or structure, that is part of the below-described facilities or structures, and these facilities or structures pose an imminent and unreasonable threat to public health, safety, or welfare:

FACILITIES OR STRUCTURES: Galveston Bay Derelict Facilities or Structures, production platforms, including all satellite platforms, process piping, gathering pipelines, transmission pipelines and all machinery, equipment, fixtures, and furnishings appurtenant thereto, specifically:

1. The compressor platform and associated structures locally known as the "Barn."

LOCATION: State Tract No. 291, Lat (DMS) 29°33'18, Long (DMS) 94°57'14, in Galveston Bay, Chambers County.

2. The production platform and equipment locally known as the "Barn Dryer."

LOCATION: State Tract No. 288, Lat (DMS) 29°31'17, Long (DMS) 94°54'46, in Galveston Bay, Chambers County.

3. The production tripod and platform base locally known as the "Birds Nest."

LOCATION: State Tract No. 307, Lat (DMS) 29°30'43, Long (DMS) 94°54'51, in Galveston Bay, Chambers County.

4. The multiple structures locally known as the "Blue and White."

LOCATION: State Tract No. 258, Lat (DMS) 29°33'43, Long (DMS) 94°57'33, in Galveston Bay, Chambers County.

5. The well (API 071-31019) locally known as the "Blue and White Well #1."

LOCATION: State Tract No. 258, Lat (DMS) 29°33'43, Long (DMS) 94°57'32, in Galveston Bay, Chambers County.

6. The well (API 071-31005) locally known as the "Blue and White Well #2."

LOCATION: State Tract No. 258, Lat (DMS) 29°33'43, Long (DMS) 94°57'31, in Galveston Bay, Chambers County.

7. The well (API 071-30969) locally known as the "Blue and White Well #3."

LOCATION: State Tract No. 258, Lat (DMS) 29°33'43, Long (DMS) 94°57'30, in Galveston Bay, Chambers County.

8. The large 4-pile production platform with 3 each line heaters and separators locally known as the "Boiler Maker."

LOCATION: State Tract No. 259, Lat (DMS) 29°33'15, Long (DMS) 94°56'33, in Galveston Bay, Chambers County.

9. The 4-pile production platform locally known as the "Diving Board."

LOCATION: State Tract No. 263, Lat (DMS) 29°31'30, Long (DMS) 94°53'49, in Galveston Bay, Chambers County.

10. The production platform and well protector locally known as the "Empty Box."

LOCATION: State Tract No. 288, Lat (DMS) 29°31'22, Long (DMS) 94°54'25, in Galveston Bay, Chambers County.

11. The empty well crib with 10" P/L terminus locally known as the "Empty Well Crib."

LOCATION: State Tract No. 308, Lat (DMS) 29°30'15, Long (DMS) 94°54'13, in Galveston Bay, Chambers County.

12. The exposed flowline pulled above the surface locally known as "Norm's Pipe or Pipe Horseshoe."

LOCATION: State Tract No. 252, Lat (DMS) 29°34'00, Long (DMS) 94°56'5, in Galveston Bay, Chambers County.

13. The 6-pile steel production process platform with 3 separators and 1500 bbl gun barrel, 3 each PF base, wood piling locally known as the "Silo."

LOCATION: State Tract No. 307, Lat (DMS) 29°31'3, Long (DMS) 94°55'2, in Galveston Bay, Chambers County.

14. The well head with cage (API 071-30896) locally known as the "Smelly Bird Well #1."

LOCATION: State Tract No. 292, Lat (DMS) 29°33'19, Long (DMS) 94°57'35, in Galveston Bay, Chambers County.

15. The well head with cage (API 071-30906 or 071-31855) locally known as the "Smelly Bird Well #2."

LOCATION: State Tract No. 292, Lat (DMS) 29°33'19, Long (DMS) 94°57'35, in Galveston Bay, Chambers County.

You are required to remove the above described and placard-noticed facility or structure. Violation of §51.302 of TNRC and **failure to obtain proper authorization** for the above described facility or structure within thirty (30) days after the date on which this notice is served will subject you to the removal of the facility or structure by the Land Commissioner.

YOU ARE FURTHER NOTIFIED that you may submit, not later than thirty (30) days after the date on which this notice is served, a written request for a hearing. The request for hearing should be sent to the Administrative Hearings Clerk, General Land Office, 1700 North Congress Avenue, 9th Floor, Austin, Texas 78701-1496. **FAILURE TO TIMELY REQUEST A HEARING WAIVES ALL RIGHTS TO JUDICIAL REVIEW OF THE LAND COMMISSIONER'S FINDINGS AND ORDERS AND REQUIRES YOU TO IMMEDIATELY REMOVE THE FACILITY OR STRUCTURE.**

TRD-201301243

Larry L. Laine

Chief Clerk/Deputy Land Commissioner

General Land Office

Filed: March 25, 2013



Texas Higher Education Coordinating Board

Notice of Public Hearing - State of Texas College Student Loan Refunding Bonds

Notice is hereby given of a public hearing to be held by the Texas Higher Education Coordinating Board (the "Issuer") on April 24, 2013, at 2:30 p.m., at the offices of the Issuer, 1200 East Anderson Lane, Room 1.170, Austin, Texas 78752, with respect to the issuance of one or more series of State of Texas College Student Loan Refunding Bonds (the "Bonds") to be issued by the Issuer in an aggregate face amount of not more than \$115,000,000, the proceeds of which will be used to refund certain student loan bonds that were previously issued by the Issuer to fund an ongoing student loan program of the Issuer under Chapter 52, Texas Education Code (the "Loan Program"), and thereby to facilitate recycling prepayments and repayments of loans made pursuant to the Loan Program to make new loans under the Loan Program to eligible students at institutions of higher education in the State of Texas and, in certain cases, to achieve interest cost savings. A description of the Loan Program and the particular bonds to be refunded have been and will be kept on file at the office of the Issuer at the address set forth above. The Bonds will be general obligations of the State of Texas.

All interested persons are invited to attend such public hearing to express their views with respect to the Loan Program and the proposed issuance of the Bonds. Questions or requests for additional information may be directed to Dr. Arturo Alonzo, Deputy Commissioner for Finance and Administration/Chief Operating Officer, P.O. Box 12788, Austin, Texas 78711-2788.

Persons who plan to attend are encouraged, in advance of the public hearing, to inform the Issuer either in writing or by telephone at (512) 427-6135. Any interested persons unable to attend the hearing may submit their views in writing to the Issuer prior to the date scheduled for the hearing.

This notice is published and the above described hearing is to be held in satisfaction of the requirements of section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

TRD-201301276

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Filed: March 27, 2013

Texas Department of Housing and Community Affairs

2012 - 2013 Housing Trust Fund Contract for Deed Conversion Program "Assistance Grants" Notice of Funding Availability (NOFA)

(I) Source of Housing Trust Funds.

The Housing Trust Fund (HTF) was established by the 72nd Legislature, Senate Bill 546, §2306.201 of the Texas Government Code, to create affordable housing for low- and very low-income households. Funding sources consist of appropriations or transfers made to the fund, unencumbered fund balances, and public or private gifts, grants, or donations.

(II) Notice of Funding Availability (NOFA).

The Texas Department of Housing and Community Affairs (the "Department") announces the availability of \$500,000 in funding through

the Department's Reservation System for HTF Contract for Deed Conversion Program Assistance Grants. There are two types of Assistance Grants that support eligible nonprofit organizations and units of local government in helping eligible colonia households to convert their contracts for deeds (CFD) to warranty deeds. If an administrator assists a household with converting their CFD **without** any TDHCA HOME Investment Partnership Program funds, the administrator will receive a \$3,500 Assistance Grant upon closing (Option 1). If an administrator assists a household with converting their CFD **and** with making additional housing improvement **with** TDHCA HOME Investment Partnership Program funds, the administrator will receive a \$6,500 Assistance Grant upon closing and commencement of construction (Option 2). All eligible households must reside in a colonia within 150 miles of the Texas-Mexico border and earn 60% or less of the applicable Area Median Family Income.

(III) Application Deadline and Availability.

The HTF Contract for Deed Conversion Program Assistance Grants NOFA is posted on the Department's website: <http://www.tdhca.state.tx.us/htf/index.htm>. Subscribers to the Department's LISTSERV will receive notification that the NOFA is posted.

Questions regarding the HTF Contract for Deed Conversion Program Assistance Grants NOFA may be addressed to Glynis Laing at (512) 936-7800 or htf@tdhca.state.tx.us.

TRD-201301169

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: March 21, 2013

Texas Lottery Commission

Instant Game Number 1519 "Stacks of Cash"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1519 is "STACKS OF CASH". The play style is "key number match".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1519 shall be \$5.00 per Ticket.

1.2 Definitions in Instant Game No. 1519.

A. Display Printing - That area of the Instant Game Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, DOUBLE DOLLAR SIGN SYMBOL, STACK OF MONEY SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$40.00, \$50.00, \$100, \$500, \$1,000 and \$50,000.

D. Play Symbols caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO.1519 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
DOUBLE DOLLAR SIGN SYMBOL	DBL\$
STACK OF MONEY SYMBOL	WIN ALL
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$40.00	FORTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000 or \$50,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1519), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1519-0000001-001.

K. Pack - A Pack of "STACKS OF CASH" Instant Game Tickets contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "STACKS OF CASH" Instant Game No. 1519 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "STACKS OF CASH" Instant Game is determined once the latex on the Ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "DOUBLE DOLLAR SIGN" Play Symbol, the player wins DOUBLE the PRIZE for that Play Symbol. If a player reveals a "STACK OF MONEY" Play Symbol, the player WINS ALL 20 PRIZES instantly! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;

8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Ticket must not be counterfeit in whole or in part;

10. The Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the Ticket;

14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;

15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the Ticket must be printed in the symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the serial font and must correspond precisely to the artwork on file at

the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets in a Pack will not have identical play data, spot for spot.

B. No duplicate WINNING NUMBERS Play Symbols on a Ticket.

C. No duplicate non-winning YOUR NUMBERS Play Symbols on a Ticket.

D. No more than three identical non-winning Prize Symbols on a Ticket.

E. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 10 and \$10).

G. When the "STACK OF MONEY" (win all) Play Symbol appears, there will be no occurrence of any of YOUR NUMBERS Play Symbols matching to any WINNING NUMBERS Play Symbol.

H. When the "STACK OF MONEY" (win all) Play Symbol appears, there will be no occurrence of the "DOUBLE DOLLAR SIGN" (doubler) Play Symbol.

I. The "STACK OF MONEY" (win all) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

J. The "DOUBLE DOLLAR SIGN" (doubler) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

K. The top Prize Symbol will appear at least once on every Ticket unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "STACKS OF CASH" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form

and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "STACKS OF CASH" Instant Game prize of \$1,000 or \$50,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "STACKS OF CASH" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "STACKS OF CASH" Instant Game, the Texas Lottery shall deliver to an adult

member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "STACKS OF CASH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 Tickets in the Instant Game No. 1519. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1519 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	660,800	10.71
\$10	755,200	9.38
\$15	283,200	25.00
\$20	94,400	75.00
\$50	20,650	342.86
\$100	31,978	221.40
\$500	4,543	1,558.44
\$1,000	145	48,827.59
\$50,000	9	786,666.67

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.83. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1519 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1519, the State Lottery Act (Texas Government Code,

Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201301260

Bob Biard

General Counsel

Texas Lottery Commission

Filed: March 26, 2013



Instant Game Number 1523 "Joker's Wild"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1523 is "JOKER'S WILD." The play style is "beat score."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1523 shall be \$5.00 per Ticket.

1.2 Definitions in Instant Game No. 1523.

A. Display Printing - That area of the Instant Game Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each

Play Symbol is printed in symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 2 CARD SYMBOL, 3 CARD SYMBOL, 4 CARD SYMBOL, 5 CARD SYMBOL, 6 CARD SYMBOL, 7 CARD SYMBOL, 8 CARD SYMBOL, 9 CARD SYMBOL, 10 CARD SYMBOL, JACK CARD SYMBOL, QUEEN CARD SYMBOL, KING CARD SYMBOL, ACE CARD SYMBOL, JOKER SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$40.00, \$50.00, \$100, \$500, \$1,000 and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO.1523 - 1.2D

PLAY SYMBOL	CAPTION
2 CARD SYMBOL	TWO
3 CARD SYMBOL	THR
4 CARD SYMBOL	FOR
5 CARD SYMBOL	FIV
6 CARD SYMBOL	SIX
7 CARD SYMBOL	SVN
8 CARD SYMBOL	EGT
9 CARD SYMBOL	NIN
10 CARD SYMBOL	TEN
JACK CARD SYMBOL	JCK
QUEEN CARD SYMBOL	QUN
KING CARD SYMBOL	KNG
ACE CARD SYMBOL	ACE
JOKER SYMBOL	WINALL
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$40.00	FORTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000 or \$50,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten

(10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1523), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1523-0000001-001.

K. Pack - A Pack of "JOKER'S WILD" Instant Game Tickets contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "JOKER'S WILD" Instant Game No. 1523 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "JOKER'S WILD" Instant Game is determined once the latex on the Ticket is scratched off to expose 60 (sixty) Play Symbols. If a player's YOUR CARD Play Symbol beats a THEIR CARD Play Symbol within a GAME, the player wins the PRIZE for that GAME. If a player reveals a "joker" Play Symbol, the player WINS ALL 20 PRIZES! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 60 (sixty) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Ticket must be complete and not miscut, and have exactly 60 (sixty) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the Ticket;

14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;

15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 60 (sixty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 60 (sixty) Play Symbols on the Ticket must be printed in the symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets in a Pack will not have identical play data, spot for spot.

B. No more than four identical non-winning Prize Symbols on a Ticket.

C. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

D. No ties between the YOUR CARD Play Symbol and THEIR CARD Play Symbol within a GAME.

E. When the "JOKER" (win all) Play Symbol appears, there will be no occurrence of a YOUR CARD Play Symbol beating a THEIR CARD Play Symbol in any of the GAMES.

F. There will never be a Jack, Queen, King or Ace THEIR CARD Play Symbol in the same GAME as the "JOKER" (win all) Play Symbol.

G. The "JOKER" (win all) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

H. No duplicate non-winning GAMES on a Ticket.

I. The top Prize Symbol will appear at least once on every Ticket unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "JOKER'S WILD" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "JOKER'S WILD" Instant Game prize of \$1,000 or \$50,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "JOKER'S WILD" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Texas Government Code §403.055;

b. in default on a loan made under Chapter 52, Texas Education Code; or

c. in default on a loan guaranteed under Chapter 57, Texas Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Texas Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "JOKER'S WILD" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "JOKER'S WILD" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 Tickets in the Instant Game No. 1523. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1523 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	660,800	10.71
\$10	708,000	10.00
\$15	188,800	37.50
\$20	236,000	30.00
\$50	20,650	342.86
\$100	23,895	296.30
\$500	4,130	1,714.29
\$1,000	357	19,831.93
\$50,000	6	1,180,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.84. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1523 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1523, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201301176

Bob Biard

General Counsel

Texas Lottery Commission

Filed: March 21, 2013

Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 20, 2013, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Friendship Cable of Texas, Inc. d/b/a Suddenlink Communications for an Amendment to Its State-Issued Certificate of Franchise Authority, Project Number 41309.

The requested amendment is to expand the service area footprint to include the municipality of Trinity, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) at (800) 735-2989. All inquiries should reference Project Number 41309.

TRD-201301229

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 22, 2013

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 20, 2013, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Baja Broadband, LLC for an Amendment to Its State-Issued Certificate of Franchise Authority, Project Number 41311.

The requested amendment is to remove the service area footprint of the City of Van Horn and add the unincorporated areas of Yoakum County, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888)

782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) at (800) 735-2989. All inquiries should reference Project Number 41311.

TRD-201301228

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 22, 2013



Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On March 19, 21, and 25, 2013, Sage Telecom of Texas, LP (Applicant) filed an application and amendments thereto to amend service provider certificate of operating authority (COA) Number 60160. Applicant seeks approval to reflect a change in name to Sage Telecom Communications, LLC and a pro forma corporate restructuring in which all assets of Applicant will be transferred to Sage Telecom Communications, LLC.

The Application: Application of Sage Telecom of Texas, LP for Amendment to a Service Provider Certificate of Operating Authority, Docket Number 41305.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at 1-888-782-8477 no later than April 12, 2013. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll-free at 1-800-735-2989. All comments should reference Docket Number 41305.

TRD-201301262

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 26, 2013



Notice of Filing to Withdraw Services Pursuant to P.U.C. Substantive Rule §26.208(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) to withdraw services pursuant to P.U.C. Substantive Rule §26.208(h).

Docket Title and Number: Application of Southwestern Bell Telephone Company d/b/a AT&T Texas to Withdraw DATAPHONE Select-A-Station Service, Pursuant to Substantive Rule §26.208(h) - Docket Number 41262.

The Application: On March 4, 2013, Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas or Applicant) filed an application to withdraw the offering of DATAPHONE Select-A-Station Service. AT&T Texas explained that this optional service was grandfathered December 22, 1994, when the manufacturer ceased making the equipment used to provide the service. AT&T Texas also stated that the remaining customers have since disconnected this service over the last 20 years. Since there are no subscribers, AT&T Texas has no provisions for grandfathering or competitive alternatives. The proceedings were docketed and suspended on March 5, 2013, to allow adequate time for review and intervention.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All inquiries should reference Docket Number 41262.

TRD-201301227

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 22, 2013



Texas Department of Savings and Mortgage Lending

Notice of Application of Change of Control of a State Savings Bank

Notice is hereby given that on March 20, 2013, application was filed with the Savings and Mortgage Lending Commissioner of Texas for change of control of Providence Bank of Texas, SSB, Southlake, Texas, by Victor Abraham.

This application is filed pursuant to 7 TAC §§75.121 - 75.127 of the Rules and Regulations Applicable to Texas Savings Banks. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

TRD-201301261

Douglas B. Foster

Commissioner

Texas Department of Savings and Mortgage Lending

Filed: March 26, 2013



Texas Department of Transportation

Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Texas Administrative Code, Title 43, §30.209, the Texas Department of Transportation conducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following website:

www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings.

Or visit www.txdot.gov, How Do I Find Hearings and Meetings, choose Hearings and Meetings, and then choose Schedule.

Or contact Texas Department of Transportation, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 1-800-68-PI-LOT.

TRD-201301263

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: March 26, 2013



Tyler County

Request for Comments and Proposals from Parties Interested in Providing Additional Medicaid Beds in Tyler County, Texas

Section 32.0244 of the Texas Human Resources Code permits a County Commissioners Court of a county with no more than two (2) nursing homes to request that the Department of Aging and Disability Services (DADS) contract for additional Medicaid nursing facility beds in that county. This may be done without regard to the occupancy rate of available beds in the county.

The Commissioners Court of Tyler County is considering requesting that DADS contract for more Medicaid nursing facility beds in Tyler County. The Commissioners Court is soliciting comments on whether the request should be made. Further, the Commissioners Court seeks proposals from persons interested in providing additional Medicaid beds in Tyler County, including persons providing Medicaid beds in a nursing facility with a high occupancy rate, to determine if qualified entities are interested in submitting proposals to provide these additional Medicaid nursing facility beds.

Comments and proposals for the Department of Aging and Disability Services to contract for additional Medicaid beds in Tyler County should be presented at the public hearing scheduled for Thursday, April 11, 2013, at 10:00 a.m. in Room 101 of the Tyler County Courthouse, 100 W. Bluff, Woodville, Texas.

TRD-201301167
Jacques Blanchette
County Judge
Tyler County
Filed: March 20, 2013



The Texas A&M University System

Notice of Sale of Oil, Gas, and Sulphur Lease

The Board of Regents of The Texas A&M University System, pursuant to provisions of V.T.C.A., Education Code, Chapter 85, as amended, and subject to all policies and regulations promulgated by the Board of Regents, offers for sale at public auction in room 614, System Real Estate Office, John B. Connally Building, 301 Tarrow, College Station, Texas, at 10:00 a.m., Wednesday, April 24, 2013, an oil, gas and sulphur lease on the following described land in Brazos County, Texas.

The property offered for lease contains 1,991.39 acres, more or less, and is more particularly described as follows:

Being 1,991.39 acres of land, more or less, out of the James Curtis Survey, A-12, the John Williams Survey, A-237, and the Thomas F.

McKinney Survey, A-33, all in Brazos County, Texas comprising the Texas A&M University Riverside Campus.

The minimum lease terms, which apply to this tract, are as follows:

- (1) Bonus: Market rate, but in no event will it be less than \$900 per net mineral acre
- (2) Royalty: 25%
- (3) Primary term: Three (3) years
- (4) Delay Rental: \$25 per acre
- (5) Net Mineral Acres: 1,991.39 (More or Less)

Highest bidder shall pay to the Board of Regents on the day of the sale 25% of the bonus bid, and the balance of the bid shall be paid to the Board of Regents within twenty four (24) hours after notification that the bid has been accepted.

All payments shall be by certified check, cashier's check or wire transfer.

Failure to pay the balance of the amount bid will result in forfeiture of the 25% paid.

The Board of Regents of The Texas A&M University System **RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS.**

Interested parties should satisfy themselves as to what production horizons are available for lease.

Further inquiries concerning oil, gas and sulphur leases on The Texas A&M University System land should be directed to:

Melody Meyer

The Texas A&M University System

System Real Estate Office

301 Tarrow, 6th Floor

College Station, Texas 77840-7896

(979) 458-6350

TRD-201301204

Don Barwick

HUB and Procurement Manager

The Texas A&M University System

Filed: March 22, 2013



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 36 (2011) is cited as follows: 36 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

40 TAC §3.704.....950 (P)